DOCUMENT RESUME

ED 154 550 EC 110 253

TITLE Implementation, Administration and Funding of Wisconsin's Educational Programs for Handicapped Children.

PUB DATE Mar 77

NOTE 134p.; Prepared by the Special Committee on Education Program Review, Wisconsin Legislature; Best copy available

EDRS PRICE MF-$0.83 HC-$7.35 Plus Postage.

DESCRIPTORS *Educational Programs; Elementary Secondary Education; Exceptional Child Services; Federal Legislation; *Handicapped Children; *Program Administration; *Program Evaluation; State Legislation; *State Programs; *Student Financial Aid

IDENTIFIERS Education for All Handicapped Children Act; *Wisconsin

ABSTRACT

The report presents the findings and principal recommendations from the Wisconsin Joint Committee on Legislative Organization regarding implementation of Subchapter IV, Chapter 115 of the statutes which included the principle that all handicapped children in the state receive free and appropriate education. Chapters focus on background, laws, and program growth in Wisconsin of aid for the education of exceptional children; the department of public instruction's management and administration of Chapter 115; implementation of Chapter 115; issues in the implementation of Chapter 115 (including administrative problems, due process problems, and noncompliance); impact of P. L. 94-142, Education for All Handicapped Children Act, on state special education programs; and program costs and aid distribution. Among recommendations listed in a final chapter are the following: modify the provisions regarding the exiting of a child from a special education program once that program is deemed to be no longer appropriate for that child; have tuition charges for Chapter 115 services paid directly to school districts; and provide certain additional staffing to the Division for Handicapped Children. (SBH)

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STATE OF WISCONSIN

Implementation, Administration and Funding of Wisconsin's Educational Programs for Handicapped Children

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Special Committee on Education
Program Review
Wisconsin Legislature
March, 1977

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IMPLEMENTATION, ADMINISTRATION AND FUNDING OF WISCONSIN'S EDUCATIONAL PROGRAMS FOR HANDICAPPED CHILDREN

SUMMARY OF THE REPORT

CHAPTER I: INTRODUCTION

In June, 1976, the Special Committee on Education Program Review selected for evaluation the services provided to Wisconsin children with exceptional educational needs under Subchapter IV, Chapter 115 of the statutes. A review of educational programs for handicapped children was selected for four reasons: (1) the statutes required that all school districts be in compliance with the mandates of Subchapter IV, Chapter 115 as of July 1, 1976; (2) a declining birth rate since 1961 should have begun to translate into a stabilization in the number of handicapped children being served; (3) there was increasing legislative concern over the substantial increases in costs associated with Chapter 115 programs; and (4) the passage of the Education for All Handicapped Children Act of 1975 (Public Law 94-142) marked the beginning of federal involvement in special education. This new law carried with it the possibility of substantial federal funding involvement to support educational services to handicapped children.

CHAPTER II: AID FOR THE EDUCATION OF CHILDREN WITH EXCEPTIONAL EDUCATION NEEDS: THE WISCONSIN SETTING

The State of Wisconsin has always had a fundamental commitment to the education of children with exceptional educational needs. Because these state educational services to handicapped children developed slowly and not always in a coordinated fashion, a comprehensive revision of special education programs was proposed in 1972 by the Education Committee of the Legislative Council. The committee drafted a comprehensive recodification of the state's special education laws. This action was concurred in by the Legislative Council, which submitted the proposal to the 1973 Legislature. The result, Chapter 89, Laws of 1973, completely recodified the special education subchapter of Chapter 115 of the statutes.

The new law (1) established the principle that all handicapped children in the state receive free and appropriate education; (2) declared that these children receive instruction keyed to their special needs; (3) stated that the local school district had the principal responsibilities in these tasks; (4) directed the Department of Public Instruction to supervise these activities, while at the same time assuring the child's and parents' rights; and (5) reaffirmed the state's commitment to fund the major portion of special education costs through a 70% of approved costs reimbursement formula.

Since this legislative action in 1973, the number of children served under Chapter 115 appears to have grown rapidly. Since 1973 aids for special education have also increased dramatically, at a higher rate than the percent increase in children served. Program costs have grown from $29.5 million in 1972-73, the last year before Chapter 115 revisions, to an estimated $79.3 for 1976-77 programs.

CHAPTER III: THE DEPARTMENT OF PUBLIC INSTRUCTION'S MANAGEMENT AND ADMINISTRATION OF CHAPTER 115

Two Divisions in the Department of Public Instruction are responsible for most aspects of Chapter 115 programs. The Division for Handicapped Children is charged with the dissemination of information regarding special education programs and supervises and approves local programs for children with exceptional educational needs. The Division for Financial Aids must disburse state aids in support of these programs.

The Division for Handicapped Children (DHC) compiles information on both rates of incidence of handicapping conditions and number of children presently being served. This review finds that these figures are based upon estimates of incidence. Furthermore, they have been altered a number of times in recent years. Information on children served has not been reported in terms of an unduplicated head count required for P.L. 94-142. An unduplicated head count on October 1, 1976 showed over 25,000 fewer individual students actually being served than were reported in duplicated count statistics released by the DHC.

Division for Handicapped Children program supervision has been achieved through the promulgation of rules and by direct staff consultation with local education agencies. By early 1977 the DHC still has not promulgated all of its administrative rules. Early rules have tended to establish procedural standards for a child's evaluation and placement. Operational definitions of the various disability categories, however, have not yet been promulgated. In addition to formal rules, informal guidelines have developed in the Division, some of which appear to be contrary to statute. One such policy prescribes that in some special cases, teachers spending only 85% of their time with special education youngsters may receive the full 70% salary reimbursement. A similar policy in the Division for Instructional Services regarding senior level psychologists and social workers resulted in $350,000 in aids overpayments in 1975-76.

Division staff spend extensive amounts of time in local program development and monitoring activities. Because of the substantial increased workload and a relatively constant number of staff positions, it has not been possible for program supervisors to monitor program units effectively, especially in the areas of program content and evaluation.

Special handicapped aids reimbursement in the Division for Financial Aids is a tedious and cumbersome process. Local education agencies often file reports beyond deadline dates, and claims are furthermore frequently delayed in the routing process between the Divisions. Reviewing of claims and their vouchering is a highly centralized operation done almost entirely by hand. Increasingly the Division is falling behind in payments of special handicapped aids. In 1975-76, 93 school districts received over $1.7 million in late reimbursement payments from the Division.

CHAPTER IV: IMPLEMENTATION OF CHAPTER 115

Chapter 115 programs may be offered by local school districts, school districts in cooperative agreement under s. 66.30 of the statutes, county handicapped children's education boards (CHCEB's), and cooperative education service agencies (CESA's). A detailed review of sixty-one of these agencies with follow-up visits to seventeen revealed that in local school districts relatively few new special education programs have been offered (except in the areas of early childhood handicaps, special learning disabilities, and emotional disturbance) since the passage of Chapter 115. Some districts

appear to be overidentifying the number of youngsters in the special learning disability (LD) category. There is evidence that emotionally disturbed youngsters are being inappropriately served in LD programs.

In school districts operating cooperative s. 66.30 agreements, poorly drawn contracts of association have produced multiple management and administrative problems.

The operation of CHCEB's frequently presents administrative and tuition problems. In general, school districts' resolutions of participation in CHCEB program offerings are ambiguous and poorly drawn. Because districts do not clearly specify the CHCEB programs in which they will participate, double taxation results when school district residents are taxed for their own programs and those of the CHCEB. Some CHCEB's have contracted out their activities entirely to area CESA's. These CHCEB's exist apparently for the sole purpose of collecting $88 flat aid payments for certain CHCEB enrolled students and in order to tax county residents for the unaided program costs.

CESA special education programs have increased significantly since recodification of Chapter 115. There is some evidence that some CESA's neither bill contracting school districts properly for services provided nor reimburse them correctly with special state handicapped aids.

Procedures for the paying of tuition for handicapped youngsters receiving services out-of-district are complicated. The counting of students for membership for general aid purposes is inconsistent. In some types of out-of-district programs, the child may be counted for membership; in other instances the opposite is done.

CHAPTER V: ISSUES IN THE IMPLEMENTATION OF CHAPTER 115

The experiences of local educational agencies with Chapter 115 programs have produced several general problems. In terms of program administration, local officials almost universally find the administrative rules and the reporting requirements of the law to be burdensome. A smaller number of local administrators has found the prohibitions against placement of youngsters with special handicapping conditions into nearby specialized private facilities to be too restrictive.

In the matter of procedural rights, the opportunity which now exists of permitting parents to veto the exiting of a child from a special education program has resulted in the retention of certain children in those programs who no longer need these services.

Certain unanticipated problems have arisen. Some districts find the school age parent disability category to be inconsistent with the other types of disabilities covered by Chapter 115. Other districts have found themselves to be magnet districts; excellence of local programs has resulted in neighboring districts sending many of their handicapped youngsters into that district's programs. Several districts were found to be apprehensive about the mainstreaming of special education youngsters into regular education classes.

Well after the Chapter 115 compliance deadline of June 30, 1976, the Milwaukee School District has still not complied with statutory mandates.

CHAPTER VI: IMPACT OF P.L. 94-142 ON STATE SPECIAL EDUCATION PROGRAMS

P.L. 94-142, the Education of All Handicapped Children Act of 1975 may, if authorized funding levels are actually appropriated, bring $40.4 million annually to Wisconsin handicapped youngsters by 1982. The state will receive federal funds based upon the number of handicapped youngsters being served. Use of federal funds will be restricted to certain activities until such time as the state achieves full service to its handicapped children. At that time, federal dollars rather than supplementing state efforts may actually supplant state dollars in supporting new programs. The state's present funding commitment, however, cannot be reduced.

P.L. 94-142 employs an excess cost formula for aids distribution, while Wisconsin uses a reimbursement formula.

CHAPTER VII: PROGRAM COSTS AND AID DISTRIBUTION

Special handicapped aids have increased dramatically since 1973 when Chapter 115 was recodified. From the 1972-73 program year until 1975-76, special aids have increased by $50 million. As the amount being distributed for categorical aids for handicapped programs has been increasing, sums available for distribution under the state's equalization aid formula have correspondingly been decreasing (on a percentage basis).

Costs attributable to special education directors/coordinators, senior level psychologists and social workers have grown far more rapidly than the increase in the number of personnel in those categories.

At present, six types of funding formulas for special education are being used in the United States: unit support, straight sum reimbursement, personnel reimbursement, percentage reimbursement, weighted formulas, and excess cost formulas. At present the weighted formula or the excess cost formula is being adopted by more and more states.

The excess cost formula appears to have merit because it requires each school district to spend as much on a handicapped student as on a nonhandicapped youngster, with the state and federal government funding the additional costs attributable to special education.

CHAPTER VIII: RECOMMENDATIONS

1. Institute an excess cost formula for special educational programs in Wisconsin beginning with the payment of aids in 1978-79.

2. Amend the statutes so that resident youngsters attending CHCEB classes in local district facilities be counted as 1/2 for membership purposes.

3. Clarify the meaning of salary (vis-a-vis compensation) for special handicapped aid purposes.

4. Cease reimbursing certain teachers, psychologists, and social workers at the maximum level of aid reimbursement unless statutory directives are followed.

5. Amend the statutes (a) to prohibit the establishment of new CHCEB's after January 1, 1978; (b) to prohibit CHCEB's from contracting out services; (c) to require minimum CHCEB service levels, and (d) to require minimum school district participation standards in CHCEB offerings.

6. Permit local school board withdrawals, with one year's notice, from CHCEB's on December 31 or June 30 of a year.

7. Permit placement of EEN youngsters under special conditions in private facilities in the state.

8. Initiate a legislative review of full-time EEN students in private residential care institutions to clarify the responsibility of local school districts to provide Chapter 115 services to those students.

9. Modify provisions regarding the exiting of a child from a special education program once that program is deemed to be no longer appropriate for that child.

10. Have tuition charges for Chapter 115 services paid directly by school districts.

11. Have pupils counted for membership in the district in which tuition is paid.

12. Repeal Milwaukee County tuition waiver agreements.

13. Provide certain additional staffing to the Division for Handicapped Children.

14. Provide certain additional staffing to the Division for Financial Aid.

15. Establish standards of operation for s. 66.30 agreements, CHCEB's, and CESA's administering Chapter 115 programs.

16. Submit progress reports by the Department of Public Instruction on child find activities to the Governor and to the Joint Committee on Finance during the 1977-79 biennium.

17. Modernize special handicapped aids vouchering and disbursement procedures.

18. Direct that special education funds be terminated for noncomplying school districts or establish an alternative mechanism to insure compliance.

19. Consolidate Division for Handicapped Children data requests and reporting forms.

TABLE OF CONTENTS

I. INTRODUCTION....1

II. AID FOR THE EDUCATION OF CHILDREN WITH EXCEPTIONAL EDUCATIONAL NEEDS: THE WISCONSIN SETTING....3

Background....3
Chapter 89, Laws of 1973....5
Program Growth....18

III. THE DEPARTMENT OF PUBLIC INSTRUCTION'S MANAGEMENT AND ADMINISTRATION OF CHAPTER 115....22

Mandated Functions Under Chapter 115....22
Dissemination of Information....26
Supervision of Local Programs--Rules Promulgation....30
Supervision of Local Programs--Consultation Activities....32
Disbursement of State Aids....38
Findings....41

IV. IMPLEMENTATION OF CHAPTER 115....43

Local School Districts....46
Cooperative Agreements Under s. 66.30....49
County Handicapped Children's Education Boards....56
Cooperative Educational Service Agencies....66
Tuition and Membership....69
Findings....71

V. ISSUES IN THE IMPLEMENTATION OF CHAPTER 115....73

Administrative Problems....73
Due Process Problems....77
Noncompliance....78
Unanticipated Problems....78
Findings....79

VI. IMPACT OF P.L. 94-142 ON STATE SPECIAL EDUCATION PROGRAMS....81

The Education of All Handicapped Children Act of 1975 (P.L. 94-142)....81
Findings....88

VIII. PROGRAM COSTS AND AID DISTRIBUTION....89

Wisconsin State Aid for Handicapped Children....89
Support for Handicapped Programs by Other States....97
Alternative Funding Arrangements....100
Findings....105

VIII. RECOMMENDATIONS....108

CHAPTER I
INTRODUCTION

In 1974, the Wisconsin Joint Committee on Legislative Organization agreed to participate in the Education Program Review Project of the Center for Legislative Research and Service. The Center, which was established by the Eagleton Institute of Politics at Rutgers University, has devoted its efforts to the study of state legislatures and to their improvement. The purpose of the Center's Wisconsin project was to develop and apply techniques of legislative oversight and program performance review to significant areas of public policy. To coordinate Wisconsin's participation, the Joint Committee established a Special Committee on Education Program Review in August, 1974. Since its establishment, the Special Committee has conducted a review of the state's special educational needs (SEN) program and has directed the Legislative Fiscal Bureau to commence a study of educational services provided to handicapped children in Wisconsin.

This report presents the findings and principal recommendations from the Special Committee's evaluation of services provided to Wisconsin children with exceptional educational needs pursuant to Subchapter IV, Chapter 115 of the statutes. The Committee chose educational programs for handicapped children for review for several reasons. First, the statutes required that all school districts be in compliance with the mandates of Subchapter IV of Chapter 115 as of July 1, 1976. Since enactment of the subchapter in 1973, local education agencies have expanded programs to meet the compliance date and, therefore, should now be in a position to identify in some detail the number of children currently served, the projected number of children who will need to be served in special programs in the future, and the personnel requirements to serve the target group.

Second, in each year since 1961, Wisconsin has experienced a decline in the live birth rate from that of the previous year, That decline is now being translated into an annual decreasing enrollment in the state's public school system. Consequently, the number of handicapped children being served should begin to stabilize or decline, thus giving the state an opportunity to evaluate costs and program needs without being primarily concerned about an ever increasing target population.

Third, there is increasing legislative concern over both the substantial increase of costs associated with the program and the continued appropriateness of funding programs through a percentage reimbursement formula. As evidenced by the appropriations change from sum sufficient to sum certain during the 1976 annual budget review session, the Legislature appears prepared to examine in some detail the present scope of the program. In addition, the financing of all aspects of elementary and secondary education has generated considerable debate during the 1975 legislative session so that now there appears to be interest in examining all current education funding formulas.

Finally, with the passage of the Education for All Handicapped Children Act of 1975 (P.L. 94-142) the federal government is about to begin a significant involvement in the field of educating children with exceptional educational needs. While this new federal law closely parallels many of the mandates of Chapter 115, it will also require important changes in the state's program. Furthermore, Wisconsin stands to receive substantial amounts of

federal funds to support educational services to handicapped children. Clearly it is appropriate to determine the likely impact of this new legislation on the state's basic program of service and on levels of funding support.

This report summarizes the findings based on a review of these concerns. Chapter II discusses the legislative history of the program and examines the basic legislative intent behind Chapter 115. Chapter III explores the Department of Public Instruction's management and administration of the program. Chapter IV considers the actual program implementation experiences of local school boards, s. 66.30 educational consortiums, county handicapped children's education boards (CHCEB's), and cooperative educational service agencies (CESA's) throughout the state. Chapter V identifies several issues faced by selected boards and agencies regarding the implementation of programs. Chapter VI discusses the likely impact of P.L. 94-142 on state special education programs. Chapter VII focuses on current program costs and examines other possible state funding arrangements. Chapter VIII concludes the evaluation with several recommendations for program modification and improvement.

CHAPTER II
AID FOR THE EDUCATION OF CHILDREN WITH EXCEPTIONAL EDUCATIONAL NEEDS: THE WISCONSIN SETTING

This chapter examines the history of Wisconsin's commitment to the education of handicapped children from the earliest efforts by the state to the complete recodification of Subchapter IV of Chapter 115 of the statutes. This rewriting of the statutes affecting the schooling of children with exceptional educational needs was accomplished through the enactment of Chapter 89, Laws of 1973. As part of this review, the legislative intent behind the current law is explored. Then the basic outlines of the new legislation are discussed both in terms of delivery of service and the allocation of special aids. Finally, the growth of the program since 1973 is traced.

Background

The education of handicapped children is constitutionally and by statute a fundamental function of the state. Article X, section 3, of the Wisconsin Constitution states that:

> "The legislature shall provide by law for the establishment of district schools, which shall be as nearly uniform as practicable; and such schools shall be free and without charge for tuition to all children between the ages of 4 and 20 years;..."

The debates and writings prior to the adoption of the state constitution make it clear that the framers considered it a paramount duty of government to provide the means of education for every child in Wisconsin. The State of Wisconsin early recognized the need to provide for children with handicapping conditions within its educational program. During the 1850's the state established residential schools for blind and deaf children. Gradually, additional programs were encouraged locally so that by the beginning of the twentieth century a limited number of programs were being offered through community-centered medical and educational services to the mentally retarded, to those handicapped by speech defects, and to children in need of physical therapeutic and orthopedic care.

In 1919, there was a temporary setback in the growth of services to handicapped children. The Wisconsin Supreme Court held in State ex rel. Beattie vs. Board of Education (169 Wis. 231) that a child's right to attend school "cannot be insisted upon" when his or her presence would be harmful to the best interests of the school. Thus, a child might be excluded from regular district schools under certain special conditions. However, the ruling did seem to imply that the duty of the district and the state to educate a handicapped child did not cease upon denial of admission to regular schools. Especially in the case of the handicapped child, possibly excluded through no fault or misconduct, refused pupils must be compensated in some way. Yet how this was to be done was not clearly spelled out. Outside of the relatively few community-centered services and a handful of state hospital facilities, remedies were not immediately available to the parents of excluded children. Where local special programs did not exist, there was no legal authority for parents to compel school districts to offer special classes. Furthermore, the exact nature of the responsibilities of the state under such circumstances was not well defined.

Under these uncertain conditions, Wisconsin began to coordinate its existing state services to handicapped children through the organization in 1927 of a Crippled Children's Division within the Department of Public Instruction. Partially as a result of this effort, the state moved, through new legislation in 1931, to provide flat grants to school districts to encourage the development of local educational services for handicapped children. Additional legislation in 1939 created the Bureau for Handicapped Children in the Department to consolidate the supervision of all local medical and educational programs under one agency. The enabling legislation made the bureau director responsible for the coordination, supervision, and implementation of a growing complement of services to handicapped children.

Over the next several decades the Bureau encouraged a growing number of local educational agencies to provide programs for the mentally retarded, the physically and multiply handicapped, the hearing impaired, and the sight impaired. In the early 1960's programs of service were begun for the emotionally disturbed, and the learning disabled. By 1965, local program offerings had grown to more than 1,000 classroom units throughout the state. The relatively large number of program units and the rapid addition of new ones soon required the state to revise its procedures for allocating special handicapped aids to local school districts. Chapter 518, Laws of 1965, abolished flat aids to districts offering programs for handicapped youngsters. In place of flat aids, the state opted for a percentage reimbursement scheme. Under this arrangement, the state provided 70% of the approved amounts expended in special education for books, equipment, salaries and certain other allowable expenses.

The rapid growth of programs for exceptional children and the continued uncertainty over the full extent of the state's obligations under the earlier Beattie ruling, prompted the Mental Health Advisory Committee in 1967 to request a ruling by the Attorney General on Wisconsin's responsibility for the education of its handicapped children. In an opinion (56 O.A.G. 82) issued April 13, 1967, the Wisconsin Attorney General held that the state was required to provide free public education to mentally handicapped children. The ruling stated that while some form of education was required, local district could not be compelled by laws current at the time to establish programs or special schools for the handicapped. Under such conditions, it then became the responsibility of the state to see that appropriate programming was available. The state had an obligation to provide services where none was offered locally.

The 1967 Legislature accomplished a basic reorganization of state government agencies. To coordinate state services to handicapped children, the Bureau for Handicapped Children in the Department of Public Instruction was redesignated the Division for Handicapped Children. The new Division housed both the Bureau for Exceptional Children and the Bureau for Crippled Children.

The decade of the seventies marked the beginning of a vigorous effort in Wisconsin and in the rest of the nation to secure for the handicapped child the same right to an education that already existed for the nonhandicapped. The legality of denying a public education to handicapped children by exclusion, postponement, or other means became the subject of over 35 suits throughout the country. Two cases in particular commenced in 1971 had broad implications for Wisconsin: Pennsylvania Association of Retarded Children vs. Commonwealth of Pennsylvania, 334 F. Supp. 1257 (E.D. Pa., 1971) and Mills vs.

Board of Education of the District of Columbia, 348 F. Supp. 886 (D.D.C., 1972). These cases established that handicapped children not only shall be entitled to a free public education but also shall be entitled to an education appropriate to their needs. The courts made it clear that they would resort to require services to handicapped children where state programs were found to be inadequate. In 1972 a suit (Panitch vs. State of Wisconsin, et al.) challenging the state's services to handicapped children was filed in the Federal Court for the Eastern District of Wisconsin. The suit alleged that the state was not providing the constitutionally required, free, public education to handicapped children.

Partially as a result of these events, the Wisconsin Legislative Council, at its meeting on April 13, 1972, directed its Education Committee to conduct a study of the subject matter of 1971 Assembly Joint Resolution 100, proposing a review of programs for the education and transportation of handicapped children. At its meeting on October 4, 1972, the Education Committee established a subcommittee to make a comprehensive study of the education of handicapped children and to submit its recommendations to the full Education Committee.

The subcommittee held several hearings, attended by physicians, handicapped children's program administrators, school board representatives, teachers of special education, and parents of handicapped children. From these sessions developed a draft bill to rewrite Wisconsin's existing laws relating to the education of handicapped children.

The subcommittee reported its recommendations to the Education Committee on November 28, 1972. These recommendations were approved by the Education Committee on December 19, 1972, and were reported to the Legislative Council. The Council, in turn, voted at is January 29, 1973, meeting to introduce the proposal to the Legislature.

On February 7, 1973, the Legislative Council introduced the proposed legislation as Senate Bill 185. Two substitute versions of the bill were introduced in the Senate, and the one authored by the Joint Committee on Finance was adopted by the Senate. Fifteen simple amendments making minor changes in the Senate passed version were offered in the Assembly; two of the amendments were adopted. These amendments were subsequently concurred in by the Senate on July 26, and the bill was signed by the Governor on August 1. It became law on August 9, 1973.

Chapter 89, Laws of 1973, Recodifying Chapter 115 of the Statutes

The passage of Chapter 89, Laws of 1973 achieved two principal purposes. First, the act formulated a comprehensive statement of policy for the education of handicapped children in Wisconsin. Second, it completely recodified and expanded existing laws relating to children with exceptional educational needs. The legislative intent of the new statute and the law's basic provisions are set forth in the sections which follow.

Legislative Intent. Several basic underlying assumptions were apparent in the debates and statutory language of the new law. These statements of legislative policy served to reaffirm Wisconsin's commitment to special educational services.

1. Handicapped Children Must Be Educated. The law stipulated that the

education of any child with exceptional educational needs was an integral part of Wisconsin's system of free, public education. To achieve this end, the Legislature modified the compulsory attendance statutes to require that children with exceptional educational needs be educated. Prior to the passage of the new law, the compulsory attendance sections of the statutes (s. 118.15) permitted school districts to exempt children "not in proper mental or physical condition" from its provisions.

2. A Handicapped Child Should Be Educated According to the Child's Individual Educational Needs. The law declared that a child with exceptional educational needs shall receive instruction appropriate to his or her individual requirements. The Legislature intended the program to be as flexible as possible with frequent reevaluations of the child's needs, capabilities, and progress.

3. The Education of Handicapped Children is the Responsibility of the Local School District. The Legislature recognized and stated that it was the responsibility of the school district in which the child with exceptional educational needs resided to insure that an appropriate educational program was made available for each child with handicapping conditions. The district itself did not have to operate a program if suitable alternative placement were available. The district's obligation to provide or arrange services to the child was fundamental and could not be waived.

4. The State Should Supervise, Plan and Coordinate Special Education Programs. The Legislature intended that appropriate divisions within the Department of Public Instruction monitor the delivery of educational services to the handicapped children population. To achieve this end, the Legislature granted the Division for Handicapped Children the authority to approve all new and expanded special education programs and all applications to reduce or discontinue programs.

5. State Aid Should Facilitate the Development and Maintenance of Local Programs. Because of the considerable expense involved, the Legislature reaffirmed that the state should continue to be responsible for a major share of the costs associated with providing special educational services to handicapped children. Support at the level of 70% of approved costs was maintained for amounts expended on special books, equipment, salaries, and certain other approved expenses.

Basic Provisions. Chapter 89, Laws of 1973, substantially rewrote the state's existing laws (Chapter 115 of the statutes) pertaining to special education of children with exceptional educational needs. A detailed presentation of the statute's basic provisions is set forth below.

1. Children to be Served. S. 115.76(3) of the statutes contains the following definition of children covered by Chapter 89:

> "Child with exceptional education needs" means any child who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be attained, requires educational services to the child to supplement or replace regular education. Children with the following conditions, in addition to children with such other conditions as the state superintendent determines, may require educational services to supplement or replace regular education:
>
> (a) Physical, crippling or orthopedic disability.

(b) Mental retardation or other developmental disabilities.
(c) Hearing impairment.
(d) Visual disability.
(e) Speech or language disability.
(f) Emotional disturbance.
(g) Learning disability.
(h) Pregnancy, including up to 2 months after the birth of the child or other termination of the pregnancy.
(i) Any combination of conditions named by the state superintendent or enumerated in pars. (a) to (h).

Under this definition, the child must have a "mental, physical, emotional or learning disability" as a starting point for determining if he or she qualified for the programs under Chapter 115. Even if the child fit these categories, that child still would not qualify unless he or she also required special educational services to attain full learning potential. The conditions listed in the definition above are examples of the disabilities which may require special educational services. Existence of one of these conditions would not necessarily be sufficient to qualify a child for special education. Thus, a child with a language disability due to cultural background would not qualify for programs under Chapter 115 unless the child also had a mental, physical, emotional or learning disability which required special educational services in order to attain full learning potential.

Pregnant young women would qualify for special education programs under Chapter 115 for up to two months following the birth of the child or termination of the pregnancy. Section 115.80(3)(d) places a further limitation on their eligibility for state-aided programs: the girl would be eligible for programming under Chapter 115 only if she had not graduated from high school, if she were under the age of 21, and if she and her parents both consented to placement in special education.

Finally, it should be noted that s. 115.76(2) defines "child" as anyone under the age of 21 years. Thus, persons 21 years of age or over would not be covered by Chapter 115 programs. Section 115.85(1) requires that a school district, upon receiving parental consent, serve children after they have attained the age of three; service to children from birth to the age of three remain permissive.

2. Identification of Children with Exceptional Needs. Section 115.80 provides for two distinct methods for identifying a child who has exceptional educational needs. The first method may be followed either through an individual's report or school district screening. The law requires that the parent or a physician, nurse, social worker, or administrator of a social agency who has reasonable cause to believe that a child brought to such individual for services has exceptional educational needs must report such a child to the Division for Handicapped Children. A teacher or other school professional in the school district where the child attends school and who similarly has reasonable cause to believe a child has exceptional education needs must report the child to the school board. The child's parents must be informed before the report to the school board or Division is made. This report is aimed at identifying the possible existence of special educational needs in children before they enter school. Once the report has been made to the Division, it must inform the person making the report, and the parent, of the procedure for obtaining an examination by a multidisciplinary team.

The second method of identifying a child with exceptional educational needs is through school district screening. The school district, under s. 115.80(2), must screen a youngster when that child first enrolls in a public school in the district. Thus, most children will be screened when they first enter school at approximately age 5, but those who transfer into the district will be screened by the new district when they transfer. Screening must be conducted pursuant to standards adopted by the state superintendent.

As a result of an individual's report or school district screening, a child who is thought to have special educational needs must be examined by a multidisciplinary team and recommended for special education before being placed by the school board. The team is composed of at least two persons skilled in "assessing exceptional educational needs" and in "programming for children with exceptional educational needs". The multidisciplinary team is required to examine children who are referred to it through the screening process, an individual's report or by a school board; before it conducts the examination, the team must obtain written parental consent. Thus, a parent who refuses to allow the child to be examined can block placement of the child in special education.

Once consent to the examination has been obtained, the multidisciplinary team will examine the child and consult with his parents. If it deems it in the child's best interests, it will recommend to the school board that the child be placed in special education. In that case, it will also recommend a specific special education program tailored to the child's needs.

This examination procedure is designed to keep the parents informed of the child's needs, as well as to provide the school board with expert advice on placing the child. Before the child is actually placed, a second written parental consent must be obtained. The school board, in all cases, has the final authority subject to parental approval in determining the placement of the child.

A child who has been placed in a special education program must be reexamined by a multidisciplinary team at least once every three years (s. 115.80(5)). This examination is intended to keep the school district abreast of changes in the child's development that should be reflected in his special education placement.

3. Parental Rights. A parent has a right, under s. 115.81(1)(a), to appeal decisions relating to a child's special education if:

1. The appeal is filed within 4 months after the school district clerk has mailed the notice of placement in special education.

2. The appeal is filed within 4 months after the school district clerk has mailed the notice of removal from a special education program.

3. The parent believes the local school board has placed the child in a special education program which does not satisfactorily serve the child's needs.

4. The child has not been placed in a special education program and the parent believes that such placement would benefit the child.

In some situations, the parent may be able to support an appeal on the

basis of more than one of the above grounds. The appeals on the basis that a child is going to be placed in a special education program or removed from one must be made within 4 months of the date on which notice is sent to the parent. If the child's parents wish to appeal because in their judgment the child has been placed in an inappropriate program or has not been placed in a special education program at all, they may appeal under this statutory provision. However, the parent may only appeal once per school year under this section.

The statute further protects both child and parents by prohibiting the school board from altering the youngster's placement within the time period allowed to the parent to appeal or, if there is an appeal, before the school board issues a decision. This protection is suspended if the parent has consented in writing.

Sections 115.81(4) and (5) specify the parent's rights during the hearing. The parent is given access to all reports upon which the decision to place or remove the child from special education could have been based. The parent may determine whether the hearing should be public or private, examine and cross-examine witnesses, introduce evidence, appear in person or be represented by an advocate. The term "advocate" includes persons other than attorneys. Furthermore, the parent is entitled to an independent examination of the child. If the parent is unable to afford the examination, the school district must pay reasonable expenses. Finally, the parent may receive a detailed summary of the hearing.

The school board must hold the hearing within 60 days of the date of appeal and must issue a decision within 30 days of the hearing. If no decision is issued, the original determination stands. The parent may then appeal within 30 days to the state superintendent, who has another 30 days within which to issue a decision. Finally, as a last recourse the parent may appeal to circuit or county court within 30 days.

4. Delivery of Service. Chapter 115 provides several mechanisms for the provision of services to children with exceptional educational needs. Table I, "Programming Alternatives for Education of Handicapped Children in Wisconsin," presented over the following pages provides a synopsis of the law's basic delivery of service alternatives. Table I includes details of the basic administrative responsibilities, distribution of program costs, and record keeping requirements associated with Chapter 115 programming.

Section 115.83 of the statutes provides that local school districts, cooperative educational service agencies (CESA's), and county handicapped children's education boards (CHCEB's) may operate programs of service for handicapped children. In addition to regular courses of instruction for children with exceptional educational needs, these agencies may offer special physical or occupational therapy services, in-service training, special classes within a school, home instruction, family counseling, and summer school activities. This provision also permits the agency to employ certified teachers, other certified professionals, or para-professionals on a full or part-time basis. All courses, services and employe qualifications must meet the requirements established by the state superintendent.

Local School Districts. Local school districts have the basic responsibility for 1) assuring that appropriate special education programs are available to children aged 3 through 20 who have exceptional educational

Table I

PROGRAMMING ALTERNATIVES FOR EDUCATION OF HANDICAPPED CHILDREN IN WISCONSIN

	District Operated Programs	Cooperative Agreements Between Two or More School Districts (s. 66.30)	County Handicapped Children's Education Board (s. 115.86)
Program Operation	Local school district establishes and operates an approved program of service in one or more disability areas.	Two or more districts jointly operate program(s) of service in one or more disability areas.	CHCEB establishes and operates an approved program of service in one or more disability areas. Programs are made available on a countywide basis. Local school districts elect to participate in CHECB offerings by resolution of the local school board.
Program Control	Local school board.	Local school boards.	County Handicapped Children's Education Board.
Filing of Reports	By district administrator.	By district administrator of the designated "fiscal agent" school district.	By county program director.
Costs	Reflected in local school district budget.	Shared in local school district budgets.	Reflected in county budget.
Tax Levy	Assessed against the equalized valuation of the local school district.	Assessed against the equalized valuation of the local school district.	Assessed against the area of the county participating.

CESA Contract for Service	CESA Package Plan	Services Offered on a Tuition Basis [ss. 115.87-115.87 (6m)]
Local school districts purchase special education program offerings from CESA.	A "source" district initiates an approved program of service in one or more disability areas. This "package" is sold to CESA, which in turn sells this "package" to contacting local school districts.	If a local school district or CHCEB does not operate an appropriate special education program, a student may be placed in a special education program of another school district or CHCEB on a tuition chargeback basis. Under special circumstances, a student may be placed out of district in an equivalent program to one offered by his own district of residence. Such an arrangement is also handled on a tuition chargeback basis to the district or county.
CESA Board of Control and local school boards.	CESA Board of Control and local school boards.	Receiving local school board or County Handicapped Children's Education Board or CESA.
By CESA coordinator.	By CESA coordinator.	By district administrator or county program director who operates the program or CESA.
Reflected in local school district budget.	Reflected in local school district budget.	Reflected in local school district budget or in county budget.
Assessed against the equalized valuation of the local school district.	Assessed against the equalized valuation of the local school district.	Tuition Paid by County: In counties having a population of less than 500,000, students attending special education programs in another school district will have tuition paid by the county not providing the appropriate special education program. [s. 115.87(4)] A student residing in an area with programs provided by a County Handicapped Children's Education Board but transferred to an equivalent program in another school district or CHCEB will have tuition paid by the CHCEB or residence. (Such transfers must be approved by the State Superintendent and are allowed only to serve the best interests of the student.) Tuition paid by the CHCEB will be assessed only against those portions of the county offering the appropriate special education program. [s. 115.87(6)]. Tuition Paid by School District: In school districts in whole or in part within counties having a population of more than 500,000, students attending special education programs in another school district, will have tuition paid by the school district. [s. 115.87(5)(a)].

Table 1 (continued)
PROGRAMMING ALTERNATIVES FOR EDUCATION
OF HANDICAPPED CHILDREN IN WISCONSIN

	District Operated Programs	Cooperative Agreements Between Two or More School Districts (s. 66.30)	County Handicapped Children's Education Board (s. 115.86)
Tax Levy (continued)			
Student Membership Counts	Local School district reports its own students as residents for general aid purposes.	Each local school district reports its students being served under the cooperative agreement as residents for general aid purposes. (Note: these students may be attending classes outside of their district of residence.)	A local school district having students enrolled in county operated classes located in the district's facilities may report only its own students as residents for general aid purposes. A CHECB may report students enrolled in county facilities or in leased district facilities, but not counted above and receive $88 per student reported. (s. 121.135).
Special Aids	Received by local school district.	Received by fiscal agent district and redistributed to participating districts in proportion to the numbers of students in each program.	Received by county.

CESA Contract for Service	CESA Package Plan	Services Offered on a Tuition Basis [ss. 115.87-115.87 (6m)]
		A student residing in a school district providing special education programs but transferred to an equivalent program in another school district will have tuition paid by the school district of residence. (Such transfers must be approved by the State Superintendent and are allowed only to serve the best interests of the student.) Tuition paid will be assessed against the equalized valuation of the local school district [s. 115.87(6)]. In school districts in two or more counties having comparable CHECB programs, one of which is in facilities owned or leased by the local school board, a student may be placed in the program operated in the district's facilities. Tuition will be paid by the school district to the CHCEB if the student resides in the county of the program. Tuition paid will be assessed against the equalized valuation of the local school district. [s. 115.87(6m)]. Tuition Waiver: In school districts within counties having a population of more than 500,000, any two or more school districts, by agreement of their boards, may admit residents of the other school districts to special education programs and waive all claims of tuition. All costs are assessed against the equalized valuation of the local school district [s. 115.87(5)(b)].
Local school district reports its students being served under CESA contract as residents for general aid purposes. (Note: these students may be attending classes outside of their district of residence.)	Each school district reports its own students being served under the CESA "package plan as residents for general aid purposes. (Note: these students may be attending classes outside of their districts of residence.)	District of attendance reports tuition students as nonresidents. District of residence does not include these students for general aid purposes. (Note: these students are lost for general aid purposes.)
Received by CESA and redistributed to contracting districts in proportion to the number of students in each program.	Received by CESA and redistributed to contracting districts in proportion to the number of students in each program.	Received by county or local school district.

needs, 2) identifying children with handicapping conditions, and 3) placing them appropriately. The statutes do not require the school district to operate all the programs itself. It may place a student in a CESA or CHCEB program or under certain circumstances, in out-of-state or private programs.

Occasionally, conditions such as the need that a program of service be offered in a low-incidence disability area make it appropriate for two or more school districts to enter into a cooperative agreement pursuant to s. 66.30. (Section 66.30 permits municipalities, including school districts to enter into cooperative agreements.)

Whether operating its own program or participating jointly under s. 66.30 of the statutes, school districts must annually submit a local plan to the Department, under s. 115.85(3). This plan provides the Department with information and gives the district an opportunity to reassess its programs. The plan must include information on the special educational needs of each child in the district, the process used for screening children, a description of each special education program in which the district has placed children, and evaluations to the progress made by each such program and by district children in state institutions. The local plan must also include plans for new programs, expansions, reductions or terminations.

This local plan is different from the local report required under s. 115.84 of all school districts, CESA's, or CHCEB's as a prerequisite to the receipt of special aids.

Cooperative Educational Service Agencies (CESA's). The state's 19 regional CESA districts may provide educational services to handicapped children in local school districts through regular contracts and through a package plan. The former arrangement is a direct contract with CESA in which CESA provides all the services and activities. The latter arrangement differs in that a local district (source district) initiates a program of service which is then sold to CESA. In turn, CESA sells the package back to contracting school districts.

County Handicapped Children's Education Boards (CHCEB's). A CHCEB, organized in accordance with s. 115.86 may be established by a county board of supervisors. The CHCEB consists of three to five persons who are either selected by the county board or appointed by its chairperson. The CHCEB may provide an approved program of special education services consisting of special schools, classes, treatment or instructional centers. Furthermore, the CHCEB "may do all things necessary to perform its functions," including the erecting of buildings and facilities and the employment of teachers and other personnel. Once a county handicapped children's education board has been formed to offer special education programs, school districts in whole or in part within the county of service may elect to participate in one or more of those programs by formal resolution of the local school board. The tax for the operation and maintenance of each program component offered by the CHCEB and for the transportation of children to such offerings is levied only against those portions of the county participating in the part of the program.

5. Services Provided on a Tuition Basis. Section 115.87 permits school districts, CESA's, and CHCEB's to admit nonresidents and to charge tuition. Tuition is paid by the county if the school district, CESA, or CHCEB of

residence does not operate an appropriate or equivalent program, except in Milwaukee County, where it is paid by the school district. If the child is placed by the school board in an out-of-state or private program with approval of the state superintendent, the school district of residence pays the tuition.

6. State Responsibilities. Section 15.377 establishes a Council on Special Education composed of 15 members appointed by the state superintendent for staggered 3-year terms. At least 5 members of the Council must be parents of children with exceptional educational needs, at least one must be a teacher of special education and at least one of regular education. Of the remaining 8 members, the law allows no more than 7 to represent the state school districts, county handicapped children's education boards or cooperative educational service agencies. At least one of these 8 must be a school board member. The Council may report biennially to the Legislature on progress and planning of special education. It is granted access to departmental reports and statistics on special education, but not to files on individual children.

The state superintendent is required under s. 115.79 to consult with the Council concerning: (a) proposed policies or rules relating to the education of children with exceptional educational needs; (b) new special education programs, expansions, reductions or terminations by school districts, CHCEB's or CESA's which may have an impact on state special education policies; and (c) the state plan (see below). Furthermore, the consultation or proposed policies and rules must take place before the policies go into effect. This procedure is in contrast to the consultations on new program expansions, reductions, establishments and terminations which may occur after action has been taken on the program application.

Under s. 115.78, the state superintendent must annually make public a state plan for special education. This plan serves a triple function. First, it serves as a vehicle for gathering information about special education programs in Wisconsin and, through its publication, for disseminating such information. Thus, the plan must include a listing of all public and private programs and certain specified information on each. Second, the plan serves as a basis for the state to plan for future special education programs. For this reason, the plan must include aggregate data on children with special educational needs, identification of the goals of each type of special education program, recommendations as to the distribution of responsibility for special education and a 5-year projection of special education needs. Third, the plan sets forth the standards that must be met by special education programs and by school districts in identifying children with special educational needs.

The Department of Public Instruction's responsibilities under s. 115.77 are to supervise special education programs and to provide the public with information on special education. The Department's supervisory functions are carried out by the Division for Handicapped Children. Under s. 115.77(3), the Division is immediately responsible for supervision of school district, CESA, or CHCEB programs. Furthermore, it is also responsible for services at the Wisconsin School for the Deaf and at the Wisconsin School for the Visually Handicapped. The Division has general supervisory duties for programs operated by state or county residential programs.

The public information function of the Division is served, in part, by the publication of the annual state plan. The Division for Handicapped Children must maintain current information on all public and private special education programs in the state. Essentially, this requires the Division to

keep up to date the listing published by the state superintendent in the state plan.

The Department must also assure that school districts provide the programs required by Chapter 115. Through June 30, 1976, the superintendent had discretionary authority to waive the application of the law to a district. After that date, all districts were to be in compliance with statutory requirements. In the event of noncompliance, the superintendent must first hold a public hearing and then make findings. These findings may establish that there is probable cause to believe that the school district had denied equal educational opportunities to handicapped children. The superintendent, upon such determination, must next make recommendations to the school district and require it to submit a remedial plan. If, after consulting with the school board, the superintendent finds that the district's new plan had not incorporated the recommendations or that they had been inadequately implemented, the attorney general may be requested to seek injunctive or other relief against the district.

7. State Aids. Section 115.88 authorizes the reimbursement of a portion of certain approved costs associated with providing educational services for children with handicapping conditions. Under this procedure, payments are made for programs conducted during the prior school year (i.e., costs incurred in the 1976-77 school year will be reimbursed by the state in 1977-78). The section provides that special education aids equal to 70% of the amounts expended for salaries of personnel, books, equipment, and other items approved by the superintendent are reimbursable by the state. Furthermore, salaries of senior school psychologists and senior school social workers are to be reimbursed at 33-1/3% without regard to whether the psychologist or social worker is employed in a program for handicapped children. Salaries of senior level school psychologists and senior level social workers are reimbursed at 50% if the school psychologist or social worker spends at least 50% of his or her time as a part of a multidisciplinary team or special education program. Such salaries are reimbursed at 70% if the school psychologist or social worker spends all of his or her time in such activities. Thus, if a special education program is to receive state aid equal to more than 33-1/3% of the salaries of its senior school psychologists and social workers, it must keep detailed records on how they spend their time.

In addition, the statutes provide special transportation aid equal to 70% of the difference between the amount expended for transportation and the amount of general aid received for the transportation. The statutes specifically limit special transportation aid payments to children who, because of their handicapping condition, require special transportation. Aids may not be claimed for handicapped children attending either regular or special classes if they do not need special or additional transportation. "Additional" transportation has been defined as transportation between regular classes and special education classes at another program site.

Under certain circumstances a child may be housed out-of-district in order to receive special educational services. Regular aids for the lodging and board of these nonresident handicapped children are paid at the rate of $6 per week not to exceed 60% of total cost. Chapter 115 provides that the state will assume all the remaining costs through the payment of special handicapped aids. Additionally, the state pays the full cost of special education for children in hospitals and convalescent homes for crippled children.

The unaided amounts for personnel, special books and equipment, school psychologists and social workers, and transportation are subject to the general aid equalization formula under ss. 121.07 and 121.08 of the statutes. County handicapped children's education boards, not being eligible to receive general aids, are provided flat aids under s. 121.135 in the amount of $88 per pupil for every child enrolled exclusively in a county operated program and not counted for membership purposes by a local school district. The following examples help to illustrate the operation of the special handicapped and general aid formulas.

Personnel. The salaries of teachers, teacher aides, program supervisors, and program directors/coordinators are reimbursed at the 70% level with the remainder subject to the general aid formula. For example, if a local district expended $100,000 for the salaries of teachers of handicapped children in 1975-76, it would receive $70,000 in categorical aid from the state during 1976-77. In addition, assume that 40% of the district's aidable costs were paid by the state through the general aid formula. In this example, the remaining $30,000 would be aided at an amount equal to $12,000 ($30,000 x 40%). The following chart summarizes the expenditures and reimbursements.

Expenditures for salaries and fringe	$100,000	
State categorical aid	$70,000	
State general aid	12,000	
Total state share	$82,000	(82%)
Total local share	$18,000	(18%)

Books and Equipment. The statutes provide for reimbursement of 70% of of the cost of special books and equipment used in programs for handicapped children. Through internal policy directives, the Department of Public Instruction has placed an annual limitation of $300 per unit (essentially defined as a class) on the amount that may be reimbursed for the combination of those items. Therefore, the maximum yearly categorical state reimbursement is $210 ($300 x 70%) for any one unit. Again, costs not directly reimbursed are subject to the general aid formula.

Transportation. Costs associated with transporting handicapped youngsters are aided under a multiple funding mechanism. First, all handicapped children who are transported are provided regular transportation aids under the following formula.

Distance Transported to School	Reimbursement by Days Transported	
	1-90 days	91-180 days
0 to 5 miles	$12	$24
5 to 8 miles	$18	$36
8 to 12 miles	$24	$48
Over 12 miles	$27	$54

Then, the state pays in the form of special aids 70% of the difference between the actual cost of transportation and the regular transportation aids above. Thus, if a handicapped child is transported six miles to school at an annual cost of $150, the district would receive $36 in regular transportation aid, and $80 in special aid [($150 -$36) x 70%]. Finally, the district would be eligible to receive funding on the unreimbursed remainder under the general aid formula. Again, assuming a 40% aid district, the following table

summarizes the total aid a district would receive under the above example.

Transportation expenditure	$150	
State general transportation aid	$36	
State special transportation aid	80	
State general aid (40% of difference)	14	
Total state share	$130	(87%)
Total local share	$20	(13%)

Program Growth

Since the passage of Chapter 89, Laws of 1973, recodifying Subchapter IV, Chapter 115, there has been unparalleled growth in the state's program for meeting the educational needs of exceptional children. This growth is apparent in all areas: the reported number of children serviced, program units offered and state expenditures. Table II below illustrates the extent of these increases. These figures and others will be the subject of additional analysis in Chapters III and V of this report.

TABLE II
GROWTH OF EXCEPTIONAL EDUCATIONAL SERVICES
IN WISCONSIN, 1972-77

Year	Number of Children Served	Program Units	State Aid	Year of Payment
1972-73	53,530	2,649.2	$29,490,200	1973-74
1973-74 (1st year of new Ch. 115)	64,803	3,012.5	37,311,500	1974-75
1974-75 (2nd year of new Ch. 115)	73,293	3,789.5	48,833,700	1975-76
1975-76 (3rd year of new Ch. 115)	81,834	4,499.0	66,987,500	1976-77
1976-77 (1st year-full compliance)	87,644*	5,107.8*	79,332,200**	1977-78

*Estimated

**Requested by the Department of Public Instruction to the Governor for the 1977-79 biennial budget.

When the rates of increase of the reported numbers of children served and state expenditures required are compared (Table II), it can be seen that the percentage increase in special handicapped aids each year exceeds the percentage increase in the reported number of students served. In part this phenomenon can be explained by the fact that certain costs have continued to increase disproportionately. For example, major increases in the number of nonteaching personnel (school psychologists, social workers, teacher aides, supervisors and directors/coordinators) have contributed substantially to the rapid growth in cost. Furthermore, in some disability areas such as mental retardation, speech and language defects, blindness and deafness, the Department of Public Instruction indicates that, for the most part, most children are being served. Nevertheless, costs in these areas continue to escalate. A portion of these increases in undoubtedly due to the fact that more children with severe handicaps are now being served in these disability

TABLE III

RATES OF GROWTH OF SELECTED
PROGRAM CHARACTERISTICS

Year	Number of Children Served	Increase	Percent Increase	State Aid	Actual or Estimated State Aid Increase	Percent Increase
1972-73	53,530	---	---	$29,490,200	---	---
1973-74	64,804	11,273	21.1%	37,311,500	$7,821,300	26.5%
1974-75	73,293	8,490	13.1	48,833,700	11,522,200	30.9
1975-76	81,834	8,541	11.7	66,987,500	18,153,800	37.2
1976-77	87,644*	5,810*	7.1	79,332,200**	12,344,700	18.4

*Estimated
**Requested by the Department of Public Instruction to the Governor for the 1977-79 biennial budget.

Table IV

COMPARISON OF AIDS PAID FOR EDUCATION PROGRAMS OPERATED DURING THE PRECEDING YEAR FOR HANDICAPPED CHILDREN
(1973-74 through 1978-79)

Program	Passage of Ch. 89, Laws of 1973	Full Compliance Required					Percentage Increase		
	Actual 1973-74[a]	Actual 1974-75[b]	Actual 1975-76[b]	Appropriated 1976-77[b]	Requested 1977-78[c]	Requested 1978-79[c]	Pre-Compliance	Post-Compliance	1973-79
Mentally retarded	$14,660,000	$17,272,000	$20,264,500	$22,605,300	$24,191,900	$26,171,100	54.2%	16.7%	79.9%
Deaf	1,357,000	1,647,500	1,962,200	2,195,200	2,481,500	2,816,200	61.8	28.3	107.5
Blind	237,600	300,900	398,000	602,600	676,300	731,200	53.6	21.3	207.7
Speech	4,082,100	5,155,800	6,335,900	7,841,300	8,922,100	10,089,300	92.1	28.7	147.2
Orthopedic	1,537,000	1,902,200	2,310,400	2,422,400	3,341,700	4,246,300	57.6	75.3	176.3
Emotionally disturbed	1,387,900	1,921,700	3,128,400	4,915,000	6,633,900	9,596,500	254.1	95.3	591.4
Homebound instruction	277,900	594,500	457,100	683,100	13,772,500	18,036,300	604.6	62.5	1045.2
Psychologists	2,246,700	3,027,300	4,285,200	5,364,300	880,700	979,100	145.8	43.3	252.3
Social workers	1,380,900	1,510,100	1,925,900	2,444,500	6,773,200	8,174,300	138.8	52.4	263.8
Coordinators	748,200	1,052,300	1,514,000	2,023,600	2,861,700	3,329,100	77.0	36.2	141.1
Early childhood	-0-	-0-	180,800	2,200,800	2,687,200	3,196,400	170.5	58.0	327.2
School age mother's centers	-0-	-0-	172,600	592,500	2,543,500	4,157,400	1117.3	88.9	2199.4 (1975-79)
Unalloted increase[d]	-0-	-0-	-0-	2,000,000	290,600	411,200	243.3	-30.6	138.2 (1975-79)
Nonresident transportation	-0-	-0-	-0-	-0-	1,200,000	-0-	N.A.	N.A.	N.A.
					2,075,400	2,202,400	N.A.	N.A.	N.A.
TOTAL	$29,490,200	$37,311,500	$43,833,700	$66,937,500	$79,332,200	$94,336,900	127.2%	40.8%	219.9%

[a]Aids paid for 1972-73, prior to the enactment of the new Ch. 115.
[b]Aids paid for the preceding school year under new Ch. 115 prior to the full compliance mandate (7/1/76).
[c]Aids requested for the preceding school year under new Ch. 115 after the full compliance mandate (7/1/76).
[d]Provided for 1976-77 when appropriation was changed from a sum sufficient to an annual basis. Requested for 1977-78 to provide aid for unidentified program units expected to be established in the second half of the 1976-77 school year.

categories. Additional significant increases both in terms of students served and aids appropriated are also evident in categories of recent program development. Preschool children with handicapping conditions, emotionally disturbed children and children with special learning disabilities have constituted the largest group of unserved pupils, and consequently these areas have shown the greatest rate of growth in recent years. These increases are illustrated in the following table.

Table IV compares the level of aids paid by disability area from 1973-74 through the projected payments of 1978-79. Special aids paid are for programs operated during the preceding school year. Thus, aids disbursed during 1973-74 went for programs operated during 1972-73, the last year before the passage of Chapter 89, Laws of 1973. Aids paid or appropriated for the period 1974-77 were for programs operated during the 1973-74 to 1975-76 school years, the three year period during which program development leading to full compliance with the new Chapter 115 (July 1, 1976) was to be achieved. Aids requested for the 1977-79 biennium reflect costs of programs for the 1976-77 and 1977-78 school years, the first two full years after compliance. The percentage increase in aids paid is provided for each disability area: 1) for the pre-compliance period; 2) for the post-compliance period (based on budgetary requests); and 3) for the entire period since the recodification of Chapter 115. Some of these cost increases will be the subject of further analysis in Chapter VI of this report.

Historically, aids under this program have been allocated from a sum sufficient appropriation. During the 1975 annual budget review proceedings, however, the Joint Committee on Finance recommended that the appropriation be changed beginning in 1976-77 to a sum certain appropriation on an annual basis. This recommendation (enacted into law as a part of Chapter 224, Laws of 1975) was the result of a projected $8.2 million aid deficit for 1975-77 and a subsequent request by the Department of Public Instruction for an additional appropriation to cover the projected shortfall.

This chapter has presented in some detail the history of Wisconsin's involvement in programs to assist children with exceptional educational needs leading up to the passage of Chapter 89, Laws of 1973, which rewrote Subchapter IV, Chapter 115 of the statutes. This has included a brief description of the legislative intent behind the new law, a summary of the basic provisions of the statutes, and a review of the program's growth. In the chapter which follows the management and administration of the new law by the Department of Public Instruction will be analyzed.

CHAPTER III

THE DEPARTMENT OF PUBLIC INSTRUCTION'S MANAGEMENT AND ADMINISTRATION OF CHAPTER 115

The preceding chapter provided a brief description of the principal provisions of Chapter 89, Laws of 1973. This law, mandating full educational services to Wisconsin's handicapped children, substantially rewrote Subchapter IV, Chapter 115 of the statutes. The legislation specified that the chief responsibilities for the administration of programs for children with exceptional educational needs would rest with the Division for Handicapped Children (DHC) in the Department of Public Instruction (DPI). More specifically, one of the Division's constituent bureaus, the Bureau for Exceptional Children, had the major supervisory authority for the program. The Department's Division for Financial Aids was also to be involved through the vouchering and payment of special aids to districts operating special education programs.

This chapter reviews the activities of these divisions in carrying out mandated responsibilities under the law. As part of our review of Chapter 115 related administrative and management procedures in the Department, the Legislative Fiscal Bureau interviewed extensively within both divisions. Within the Bureau for Exceptional Children of the Division for Handicapped Children, the Bureau Director, the section chiefs and program supervisors in each disability area were contacted; within the Bureau for Aids Administration of the Division for Financial Aids, the Bureau Director and all principal support staff involved in the review and payment of special handicapped aid claims were interviewed.

Mandated Functions Under Chapter 115

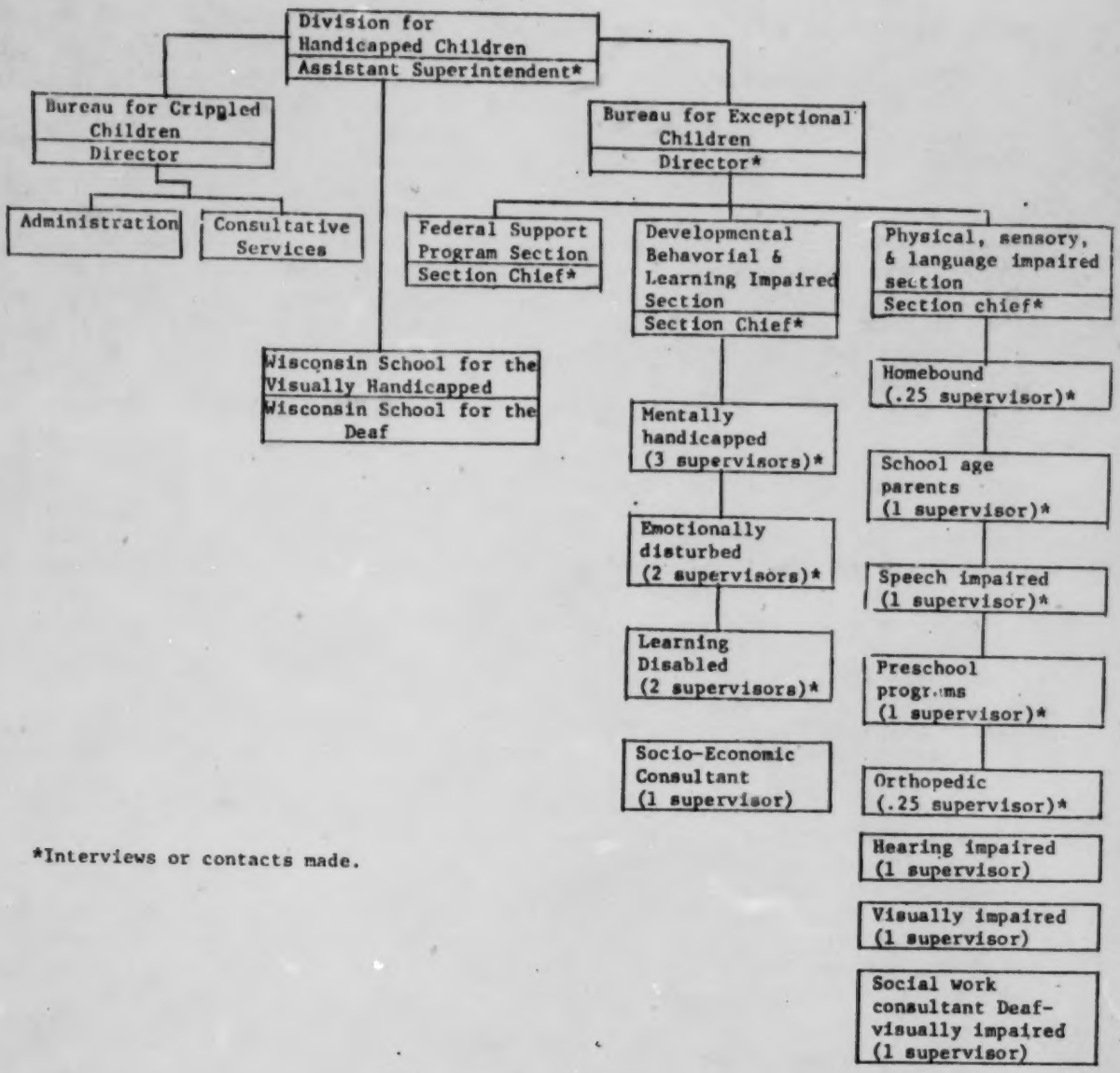
Our review of the Department of Public Instruction's responsibilities under Chapter 115 finds that there are basically three major activities: (1) the dissemination of information to the public regarding special education programs; (2) the supervision and approval of local programs for children with exceptional educational needs; and (3) the disbursement of state aids in support of those programs. The first two of these activities are coordinated by the Division for Handicapped Children while the third is the province of the Division for Financial Aids. The general activities of these two divisions as they relate to Chapter 115 are considered briefly below.

Division for Handicapped Children Responsibilities. The Division is composed of two units: the Bureau for Crippled Children and the Bureau for Exceptional Children (organized as indicated in Table I).

The Bureau for Crippled Children, which has an authorized level of positions, supported almost entirely from federal funds (Title V of the Social Security Act), offers financial, consultative, and diagnostic services to the state's crippled children. Financial aid is available to assist in the payment for the services of medical professions and for special equipment such as braces, wheel chairs and hearing aids. Consultative services are provided by physical therapists, nurses, social workers, hearing conservationists and other professional staff people. Much of the Bureau's work, however, is in the area of diagnostic services. Semiannually, the Bureau for Crippled Children convenes orthopedic clinics around the state in order that any child

TABLE I

ORGANIZATION OF THE DIVISION FOR HANDICAPPED CHILDREN



*Interviews or contacts made.

may receive a diagnostic orthopedic examination. The Bureau then follows up this program with necessary consultative and financial assistance for medical services or supplies.

The main responsibility for Chapter 115 services, however, belongs to the Bureau for Exceptional Children. The Bureau each year assists the state superintendent in the preparation of an annual plan for special education. This annual plan serves as a mechanism to compile current information on all public and private special education activities in the state. The plan details the types and levels of service provided in the state, and as such, permits the Bureau for Exceptional Children to make determinations relative to future special education requirements. Thus, the Bureau must gather specific information by disability category specifying the number of children served, the program goals pursued at the local level, and the projections of future service needs. Each year this information must be updated by the Bureau.

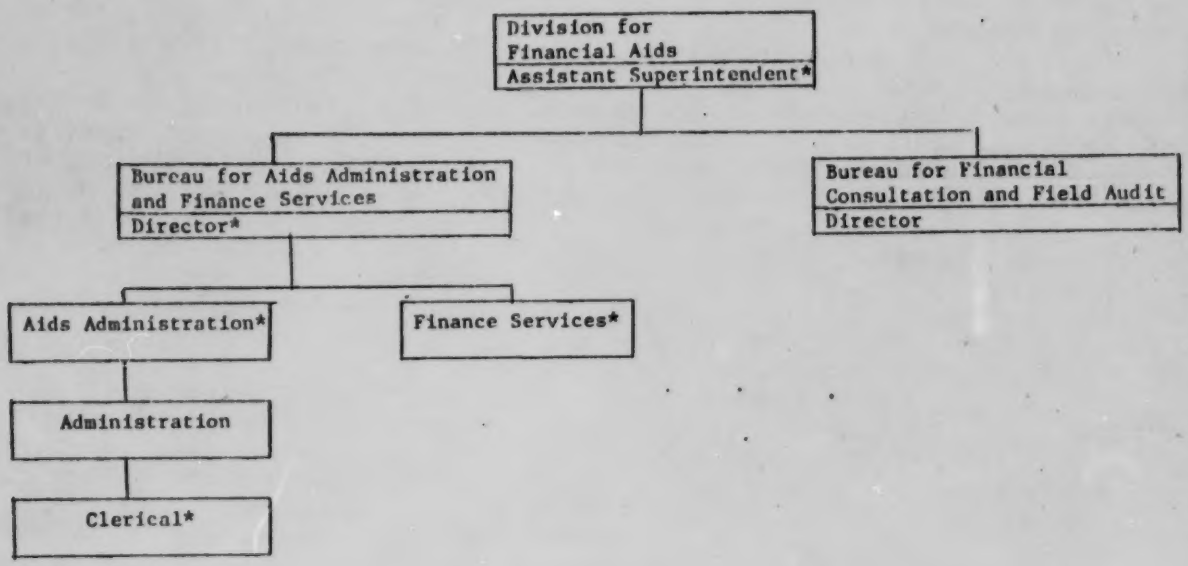
As part of these general supervisory functions, Chapter 115 permits the Department of Public Instruction to promulgate rules for the implementation of the statute. The Bureau for Exceptional Children has drafted most of these rules which set forth the standards that must be met both by special education programs in the delivery of service and by the school districts in identifying children with exceptional educational needs. Child find, screening, evaluation and hearing procedures as well as due process rules all have been developed and promulgated by the Bureau (see below for a further discussion of this matter].

The Bureau further supervises special education program offerings by coordinating the development of Chapter 115 services operated by local school districts, districts under cooperative agreements pursuant to s. 66.30, cooperative educational service agencies (CESA's), and county handicapped children's education boards (CHCEB's). On an annual basis, each of these agencies must submit to the Bureau before the beginning of the school year a local plan of service. This local plan must include details of the district's program for children with exceptional educational needs. Among other things, these statements include information on the special educational needs of each handicapped child identified in the district, a description of the educational services to be provided, and the program evaluations to be used at year's end. All such program activities, including initiation, reduction or termination of any local special education service must be approved by the Bureau.

Division for Financial Aids Responsibilities. At the conclusion of the program year, the local education agency must submit to the Bureau for Exceptional Children a report of services provided during the preceding school year and claim reimbursement. Upon certification by that Bureau, the claim is forwarded to the Bureau for Aids Administration of the Division for Financial Aids. There the claim is reviewed, checked for inconsistencies, corrected as appropriate, and paid. Table II describes the general organization of the Division for Financial Aids.

TABLE II

ORGANIZATION OF THE DIVISION FOR FINANCIAL AIDS



*Interviews or contacts made.

Dissemination of Information

The Bureau for Exceptional Children has collected considerable information on district special education activities. The Bureau receives from all educational agencies offering educational services to the handicapped an annual local plan. From this information, the Bureau prepares and publishes an annual state plan of service. In addition, during the 1975-76 school year, the Bureau required of each agency operating special education programs, a comprehensive narrative plan, setting forth in considerable detail the scope of the local district's offering. The plan required information on: (1) administration, (2) goals and objectives of each program offering, (3) placement procedures, (4) parental involvement, (4) role of professional staff and support personnel, (5) inservice activities, (6) transportation plans, (7) evaluation procedures, and (8) types of relationships with other educational agencies providing special education services. Following the submission and approval of this major narrative statement, the local district will be required each year to submit to the Bureau the appropriate updating information.

Each year the multitude of reports and plans of service flowing into the Bureau for Exceptional Children provides an immense source of information on Chapter 115 activities in the state. These materials have been used to compile data on such items as the number of children served in special education classes, the percentage of identified children actually being served, and the increases in program offerings, costs and state aid disbursements. These compilations have been cited frequently to demonstrate the progress which Wisconsin has made in recent years to assure a free and appropriate education to handicapped youngsters. Furthermore, such data have been marshalled to support the state's claim of continuing implementation of Chapter 115 services as required by the Federal District Court of the Eastern District of Wisconsin under Panitch vs. State of Wisconsin et al., (no. 72-C-461).

In reviewing these data, we have several reservations regarding their use and the interpretations which have been drawn from them. These concerns center principally on the data presented for estimated rates of incidence, the validity of the rates, and the number of children being served by Chapter 115.

Rates of Incidence. Both the overall incidence rate of handicapping disabilities in the school age population and the specific incidence rate for a disability area have been subject to change in recent years. In this decade in Wisconsin, the state has at various times accepted an overall incidence rate of first 12.0%then 11.0% and now the current 10.7%. Dropping the overall rate of incidence has the effect of decreasing the expected number of children with handicapping conditions. However, the number of children being served will not be affected by this operation. In fact, it will appear that a greater percentage of the handicapped population is actually being served. To illustrate, consider the effect of reducing the estimated incidence rate from 12.0% to 11.0% to 10.7%.

TABLE III

EFFECT OF CHANGING INCIDENCE RATES
(1975-76 School Year Data)

School Population K-12	EEN Incidence Rate	Number of Children at Indicated Rate	Number Served	Percent Served
964,219	12.0%	115,706	81,834	70.7%
964,219	11.0	106,064	81,834	77.1
964,219	10.7	103,171	81,834	79.3

During the first two years of Chapter 115 activities, the Division for Handicapped Children used an overall incidence rate of 11.0%. Since the 1975-76 school year, an overall rate of 10.7% has been used. The Division's progress reports which present comparative data for the 1973-77 period have not made reference either to the fact that the incidence rate has been modified or to the consequences of such a change.

The incidence rates for particular disability areas have also been subject to the same types of change. As with the overall rate of incidence for handicapping conditions, the reduction of the rate for a single disability area will have the same effect--the appearance of an increase in service. The incidence rate for emotionally disturbed children, traditionally a very difficult group for whom to provide services, was originally set at 2.0%. In the 1975-76 school year the rate was set at 1.5%. The effect of this reduction was to increase by one-third the apparent percentage of emotionally disturbed youngsters being served.

Validity of Incidence Rates. Table IV presents estimated rates of incidence by disability category currently being used by the Bureau for Exceptional Children.

TABLE IV

DISABILITY CATEGORY RATES OF INCIDENCE
1976-77

Disability Category	Rate*	Disability Category	Rate*
Early childhood handicaps	5.00%**	School age parents	1.00%**
Speech impaired	3.50	Vision impaired	0.60
Mentally retarded	2.30	Physically impaired (including hospital/homebound)	0.50
Special learning disabilities	2.00	Hearing impaired	0.11
Emotionally disturbed	1.50		

*Unless otherwise noted, these rates are tied to a K-12 public school population of 945,022 (estimated).

**The early childhood exceptional educational needs estimated incidence rate applies to a 3-5 year old population of 204,800. The school age parents estimated incidence rate applies to a 12-20 year old female population of approximately 472,000. (Note: The sum of these rates does not total to 10.7%, the overall incidence figure currently used by the Division. The difference in base rates for early childhood and school age parents most likely accounts for this.

As noted above, the rate of estimated incidence for emotionally disturbed children was reduced by 0.5% in the 1975-76 school year. The current 2.0% rate for special learning disabilities is more of an incidence ceiling than an actual determination of the percentage of youngsters with this handicap. Some school districts have proceeded to overidentify the number of learning disabled; the 2.0% figure has been adopted to assure that services be targeted principally to the severely learning disabled. There appear to be no supporting data for the estimated rates of incidence used for early childhood disabilities or for school age parents.

Children Served. Data on the disability incidence rates, the estimated pupil incidence, and the number of children identified and served deserve review. Figures presented by the Division (Table V) suggest that for each school year during the 1972-77 period, there were at least 100,000 children with exceptional educational needs to be served. Furthermore, during each year of the period, both the number and the percentage of all handicapped children being served observed increases.

TABLE V

NUMBER OF EEN CHILDREN SERVED
1972-77

	School Population K-12	Number of Children With Incidence at 10.7%	Number Served	Percent Served
1972-73	935,841	100,135	53,530	53.5%
1973-74	951,542	101,815	64,803	63.7
1974-75	974,333	104,254	73,293	70.3
1975-76	964,219	103,171	81,834	79.3
1976-77 (est.)	945,022	101,117	87,64[illegible]	86.7

The figures presented are duplicated head counts in most instances. There are not as indicated for 1976-77, approximately 101,100 discrete handicapped youngsters waiting to be served in Wisconsin. In the statistics compiled by the Bureau, a single student, hard of hearing, with a speech impediment and mild mental retardation would be counted in three places and reported as three children served. In effect, we do not know the actual number of handicapped individuals to be identified or served. The consequences of this reporting procedure may be demonstrated by comparing in Table VI the "children serviced" counts prepared by the Bureau on October 1, 1976 and the unduplicated count submitted pursuant to the Education for all Handicapped Children Act of 1975 (P.L. 94-142). This act will provide federal support to the state for the education of handicapped children. The state's aid entitlement will be tied to the actual number of handicapped children being served in Wisconsin.

TABLE VI

COMPARISON OF CHILD COUNTS
Children Serviced (10-1-76)

Disability Category	Bureau for Exceptional Children Count (est.)	P.L. 94-142 Count
Mentally retarded	18,835	16,432
Hard of hearing/deaf	1,109	968
Speech impaired	39,496	14,671
Visually handicapped	417	342
Emotionally disturbed	3,950	4,094
Orthopedic/multiply handicapped	855	1,579
Specific learning disability	11,811	13,694
TOTAL	76,473*	51,780

*In addition, the state provides service to 1,264 preschool "children" in generic early childhood programs. An additional 1,470 "individuals" received homebound instruction. These categories are incorporated in the figures supplied for the P.L. 94-142 count but are not incorporated in the Bureau count. School age parents (1,702) are not counted.

In comparison to the situation one, two, or three years ago, new previously unserved children are undoubtedly receiving Chapter 115 services. This is clearly the case in the new or rapidly expanding disability areas such as early childhood, school age parents, emotional disturbance and special learning disabilities. In other disability categories there have doubtless been important increases in the number of children served, but the full extent of such increases is difficult to judge given the nature of the Division's data. There are at present over 25,000 children who are receiving service in two or more disability areas (and who are counted as "served" two or more times). The improvement in the number of children being served must be attributed to two factors: the providing of service to the previously unidentified and unserved, and the providing of multiple service to the previously served. Information currently distributed by the Division for Handicapped Children does not distinguish between these factors.

Supervision of Local Programs--Rules Promulgation

In order to assure that mandated policies and procedures under Chapter 115 are successfully carried out, the Bureau for Exceptional Children has promulgated administrative rules (Chapter PI-11, Wisconsin Administrative Code). Rules for the most part have been drafted within the Bureau and submitted to the Council on Special Education for review, possible modification, and approval. The Council, on several occasions, has exercised its prerogative to require changes in portions of the proposed rules submitted to it.

Following Council approval, the proposed rules have been submitted to public hearing, at which there may be further modification. The proposed rules are then submitted to the state superintendent for approval. Upon approval, they are presented to the Assembly and Senate Education Committees where further hearings and modifications may be required. Rules approved by the committees, unless appealed to the Joint Committee for Review of Administrative Rules, are submitted to the Revisor of Statute's office and are promulgated.

The promulgation of rules to implement Chapter 115 has experienced more than its share of difficulty. First, the rules have been slow to be drafted and promulgated. The first set of rules did not come into force until December, 1975, over two years after the passage of the original Chapter 89. Second, the fact that proposed rules have had several drafts and redrafts suggests that some rules may have been inappropriate or objectionable. Third, many areas of policy have not yet been covered by administrative rule. Although such rules to cover many of these areas have almost reached the promulgation state, there are not yet enforceable rules governing such significant concerns as noncomplying school districts, relationships between the public and private sector, or operational definitions of disability areas covered by Chapter 115. Furthermore, no rules have yet been promulgated governing the duties and responsibilities of senior level social workers and psychologists. This latter failure represents in large part the inability of the Division for Handicapped Children, the Division for Instructional Services (responsible for social workers and psychologists) and the Advisory Council to come to an agreement on proposed standards and requirements.

For the most part, the Division has given a liberal construction to most statutory provisions, expanding and detailing the rules to cover most contingencies. Formal procedures have been established, personnel requirements stated and operational definitions created. In general, these rules appear appropriate. Those rules establishing screening, evaluation and hearing procedures are extensive and detailed. Given the relative lack of *experience of most school districts with such undertakings*, this detail appears warranted. Personnel requirements are also stated in some detail. We note, however, that although the requirement for hiring a director of special education is permissive, the hiring of all other administrative and supervisory staff is made contingent upon the retention of a director. Whether the Division has the statutory authority for setting such a requirement is not at all clear. Proposed rules providing operational definitions of each of the disability areas covered by Chapter 115 are long overdue. The Division has justified the delay by stating that it had to respond first by rule to establish appropriate screening and evaluation activities, areas in which few districts had much detailed expertise.

In addition to the formal administrative rules, the Division also operates with a set of internal policy guidelines which affect program operations but do not have the legal force of formal rules. Essentially, these policies set procedures for the divisional staff in processing district reports and claims. For the most part, these guidelines establish other routine policies; however, in some instances they substantially alter what would otherwise appear to be clear statutory mandates. Division for Handicapped Children policy allows for a local claim for personnel reimbursement to be approved for payment at the full reimbursement rate of 70% even though the instructional staff does not devote full-time to the children with exceptional educational needs. Division policy allows teachers: (1) to spend up to 15% of their time instructing children in regular education classes if at least some EEN children are present; or (2) to have up to 15% non-EEN children in their classes without having salary reimbursements prorated. Although departmental policy limits this practice to those local education agencies which have achieved full service to handicapped children, the policy lacks statutory authority. Our review of guidelines in the Division for Instructional Services with respect to time commitments required of senior level psychologists and social workers found a similar policy in effect. For the purpose of full 70% reimbursement, a psychologist or social worker need devote only 90% of his or her time to children with exceptional educational needs under departmental policy. In the case of special educational teaching staff, we find the 85% policy to be contrary to statute and at least inconsistent with departmental rules establishing requirements for certain other teaching areas (P.I. 11.20(2)(c)). Nonproration of psychologists' and social workers' salaries is clearly inconsistent with s. 115.88(1)(b) of the statutes. Some 114 psychologists and social workers in the 90.0% to 99.9% range were over-reimbursed by the state in 1975-76. Salaries for these personnel were reimbursed at 70% rather than the 50% as stipulated by statute. The net cost to the state in aid overpayment was $350,660.29. This is demonstrated in Table VII.

TABLE VII

AIDS OVEKPAYMENTS TO PSYCHOLOGISTS AND SOCIAL WORKERS
1975-76

	Psychologists	Social Workers
Number in 90.0-99.9% range	98	16
Total salaries claimed	$1,605,571.97	$234,877.12
Total aid paid (70%)*	1,106,311.22	164,573.62
Correct aid payment (50%)	802,785.99	117,438.56
Aid overpayment	$303,525.23	$47,135.06

*Aids payments are slightly less than 70% due to proration of certain claims to reflect the effect of federal or other state aid payments.

The Division for Handicapped Children has also imposed a books and equipment claims ceiling of $300 for each unit, resulting in a maximum possible reimbursement of $210. This ceiling is presently based on informal policy and is to be codified by proposed rule P.I. 11.33(2)(c). Neither the policy nor the proposed rule is based on statutory provisions.

Supervision of Local Programs--Consultation Activities .

The bulk of the Division for Handicapped Children's activity involves consultation with local educational agencies. Program supervisors in the Bureau for Exceptional Children consult with local agencies regarding Chapter 115 activities in four principal areas: (1) program development, (2) plan of service monitoring, (3) financial claim monitoring, and (4) crisis management. Each of these areas of activity will be reviewed.

Program Development. As a consequence of Chapter 115, local education agencies are under obligation to provide appropriate, free educational services to children with exceptional educational needs. When a local district makes a determination that it must provide service to resident youngsters, contact is made with the supervisor in the appropriate disability category at the Bureau for Exceptional Children.

When contacted, the supervisor will almost invariably make an on-site visit to consult with local education officials. The purposes of these visits are several. First, the needs of the district are explored and a determination is made if a local program or out-of-district placement is appropriate. Under certain circumstances, it may not be appropriate to establish a program (for example, the disability is in a low incidence category and the student may be best served on a tuition basis out-of-district, or the establishment of a local program may remove too many students from an out-of-district program to make that existing program infeasible). Second, the obligation of the district and the requirements of Chapter 115 are set forth in some detail. This has become a particularly significant activity in recent years, particularly in encouraging districts to establish specific learning disabled and emotionally disturbed programs. Third, the procedural requirement (certification of instructional personnel, class sizes, ranges, submission of forms and deadlines) are explained. During the 1975-76 period in which districts were establishing programs to be in

compliance with the full service mandate of July 1, 1976, program development activity was extensive. Most supervisors interviewed indicated that 50% to 60% of their time was spent traveling to districts during those years. Almost without exception, local education agencies involved in this study commented that the supervisor's assistance had been extraordinarily useful; virtually all Bureau staff members were praised for their competence in program development activities.

Plan of Service Monitoring. Local programs, once established, must be approved through the submission of an annual plan of service. The supervisors must review the plans to determine, among other things, the certifiability of special education teachers and aides, the number of authorized units, the age/grade range of these units, the number of children per unit, the nonduplication of student enrollments and the proper placement of nonresident children. If exceptions are taken, an effort must be made to clarify or rectify the condition--frequently requiring an on-site visit.

This year, Bureau program supervisors are devoting approximately 30% OF their office time to the review and approval of comprehensive district, CESA, or CHCEB master or narrative plans. These plans, to be submitted on a one-time only basis with annual updates, are designed to provide a rationale and comprehensive overview of each educational agency's full range of special education services. Monitoring of these plans is an essential activity but is nonetheless taking away considerable time from the supervisors' normal monitoring activities. Furthermore, Bureau supervisors must cope with two conditions which severely compromise their ability to monitor effectively local district's annual plans: (1) growing paperwork requirements; and (2) understaffing.

During the year, a supervisor must cope with an impressive array of reports, claims and enrollment listings. Table VIII indicates the principal forms which must be reviewed and cleared by Bureau supervisors. (This list includes a few forms which must be processed in the Division for Instructional Services for senior level psychologists and social workers.) For each disability area in which a program is offered, a local district or intermediate educational agency must file: an annual plan of service, transportation report of service, preliminary enrollment report, enrollment update, plan for summer services, final enrollment report, final report and claim for transportation, and a final report and claim for services.

These claims and reports must be reviewed by the disability area supervisor (in addition to time commitments for on-site visits, conference attendance and narrative plan review and approval). These plans constitute an important mechanism for monitoring the district's programs for compliance with the mandates of Chapter 115. Increasingly, the supervisors report finding themselves in this compliance monitoring (as opposed to a technical assistance) role. The forms submitted constitute one of the most effective means by which the Bureau personnel may determine if something is deserving of further scrutiny. Local districts, however, are understandably chaffing under the enormous paperwork required for Chapter 115 programs. To a certain extent, the reporting requirements have been reduced most notably in the area of enrollment reports. While this reduction has proven to be of assistance to to local districts, it has hampered the ability of Bureau personnel to monitor these districts as closely for compliance. Furthermore, the requirement may have to be reinstated for ultimate compliance with P.L. 94-142.

TABLE VIII

SCHEDULE OF REPORTS AND CLAIMS
REQUIRED OF DISTRICTS UNDER CHAPTER 115

Date Due	General Form Title	Form Number
July 15	Enrollment report individual disability area (preceding fiscal year)	P.I.-HC-SE-301; P.I.-HC-SE-302; P.I.-HC-SE-303; P.I.-HC-SE-304; P.I.-HC-SE-305; P.I.-HC-SE-306; P.I.-HC-SE-307; P.I.-HC-SE-308; P.I.-HC-SE-309; P.I.-HC-SE-310; P.I.-HC-SE-311
July 15	School psychological services financial plan and claim	P.I.-IS-11
July 15	School psychologist's plan and report	P.I.-IS-13
July 15	School social worker's plan and claim	P.I.-IS-61
July 15	School social worker's plan and report	P.I.-IS-12
August 15	Report of transportation of handicapped children (preceding fiscal year)	P.I.-DHC-SE-1
August 15	Annual plan of services report summary (preceding fiscal year)	P.I.-HC-SE-200
August 15	Annual plan of services report summary (current year)	P.I.-HC-SE-200
August 15	Annual plan of services & financial report--individual disability area (preceding fiscal year)	P.I.-HC-SE-201; P.I.-HC-SE-202; P.I.-HC-SE-203; P.I.-HC-SE-204; P.I.-HC-SE-205; P.I.-HC-SE-206; P.I.-HC-SE-207; P.I.-HC-SE-208; P.I.-HC-SE-209A; P.I.-HC-SE-210; P.I.-HC-SE-211; P.I.-HC-SE-212
August 15	Annual plan of services and financial report--individual disability area (current fiscal year)	P.I.-HC-SE-201; P.I.-HC-SE-202; P.I.-HC-SE-203; P.I.-HC-SE-204; P.I.-HC-SE-205; P.I.-HC-SE-206; P.I.-HC-SE-207; P.I.-HC-SE-208; P.I.-HC-SE-209B; P.I.-HC-SE-210; P.I.-HC-SE-211; P.I.-HC-SE-212
October 1	Report of transportation of handicapped children (application)	P.I.-DHC-SE-1

Date Due	General Form Title	Form Number
October 1	Enrollment report--individual disability area (current fiscal year)	P.I.-HC-SE-301; P.I.-HC-SE-302; P.I.-HC-SE-303; P.I.-HC-SE-304; P.I.-HC-SE-305; P.I.-HC-SE-306; P.I.-HC-SE-307; P.I.-HC-SE-308; P.I.-HC-SE-309; P.I.-HC-SE-310; P.I.-HC-SE-311
February 1	School psychological services financial plan and claim (annual plan)	P.I.-IS-11
February 1	School psychologists' plan and report (plan)	P.I.-IS-13
February 1	School social work services financial plan and claim (annual plan)	P.I.-IS-61
February 1	School social workers plan and report (plan)	P.I.-IS-12
February 15	Enrollment update--individual disability area	P.I.-2321; P.I.-2322; P.I.-2323; P.I.-2324; P.I.-2325; P.I.-2326; P.I.-2327; P.I.-2328; P.I.-2329; P.I.-2330; P.I.-2331
April 15	Plan of summer school services for handicapped children	P.I.-HC-SE-148
Indeterminate	Annual plan of services and financial report, homebound instruction, physical handicap (current fiscal year)	P.I.-HC-SE-209A
Indeterminate	Annual plan of services and financial report, homebound instruction, school age parents	P.I.-HC-SE-209B
Indeterminate	Physician's statement; home-hospital bound instruction	P.I.-DHC-137

Program supervisors are experiencing increasing difficulty with the August 15 deadline for submission of plans to service. In numerous cases, districts simply do not report by this deadline; it is not uncommon for a district to report a month or more late. Should districts file plans of service in a timely fashion, however, it is still virtually impossible for program supervisors to review these plans and make recommendations for changes which can realistically be met by the local district prior to the beginning of the new school year. To overcome the problem, the Division is currently considering moving the deadline for submission of plans of services back to May 1.

The monitoring and approval of reports as well as on-site visits are conducted by a small number of program supervisors. Table IX presents the growth of classroom units over the period 1972-77 and indicates the number of supervisors responsible for programs in each disability category. It is not uncommon for a single supervisor to be responsible for many hundreds of classroom units. In some few cases, units were actually reported at year's end, about which the supervisor had had no prior knowledge whatsoever. The practical effect of this situation, of course is that supervisors simply cannot effectively monitor programs under their jurisdiction. Only a small percentage of the units may be visited each year. The review of literally hundreds of claim forms and reports cannot be as thorough as it should be. Yet it is equally the case that at present levels of staffing, completely effective program consultation and monitoring are not possible.

There are further consequences of this situation. The low level of staffing in the Bureau for Exceptional Children coupled with the enormous volume of reports of service which must be processed make it virtually impossible for any evaluation of program activities to be conducted. Supervisors are unable to develop a broad overview of either the quality or the effectiveness of the disability area they monitor. Local programs usually prepare annual progress reports for each child served, however, these reports are never compiled or forwarded to the Department where they could be used for program evaluation. These reports are never forwarded to the Department because they are neither asked for by the state nor could they be processed if they were submitted. Thus, the the Department's focus has been to assure the proper administration of Chapter 115 programs within the requirements of the law. Evaluation activities, of necessity, have been minimal in recent months. However, the Department has turned its attention to the whole question of program evaluation and has developed a new process of field visits. The Department anticipates that the field visits will begin to supply some preliminary data on the effectiveness of local Chapter 115 programs.

Financial Claims Monitoring. The review of plans of service necessarily involves review and approval of costs claimed for program operation. The preliminary approval of costs for reimbursement represents the principal mechanism by which a supervisor may induce compliance by a local school district. Although supervisors may recommend to their superiors that funds be denied to a program in noncompliance or which is operating contrary to administrative rules, termination of special handicapped aids is seldom resorted to. Aside from routine funding denials (noncertification of a teacher or improper enrollment claims), reimbursements are always approved, even in the case of a district's continuing unwillingness to operate programs in conformity to establish rule. The ostensible reason for this policy is that it is better to have "some" program in operation rather than none at all as the result of a funding cut-off. The results of this policy are twofold:

TABLE IX

CLASSROOM UNITS AND PROGRAM SUPERVISORS
BY DISABILITY AREA

	1972-73	1973-74	1974-75	1975-76	1976-77	DHC Program Supervisors, 1977
Educable Mentally Retarded	1,193.5	1,251.0	1,268.5	1,259.5	1,256.8	2.5
Trainable Mentally Retarded	312.0	350.0	391.0	388.5	425.0	1.5
Deaf/Hearing Impaired	151.0	162.0	171.0	180.0	198.0	1
Blind/Visually Impaired	55.0	57.0	66.0	70.0	79.0	1
Emotionally Disturbed	151.0	201.0	298.0	410.0	548.0	2
Special Learning Disability	158.0	298.0	646.0	1,059.0	1,292.0	2
Speech and Language Impaired	554.7	580.0	772.0	802.0	925.0	1
School-age Parents	---	---	28.0	31.0	30.0	1
Physically/Multiply Handicapped	74.0	113.5	138.0	190.0	208.0	.5
Early Childhood (generic)	---	---	11.0	109.0	146.0	1
TOTALS	2,649.2	3,012.5	3,789.5	4,499.0	5,107.8 (est)	13.5

(1) districts soon determine that funding cut-off is not a realistic sanction and, therefore, may continue their noncompliance, and (2) morale among several program supervisors has begun to suffer as a result of their continuing approval of what they view as unsatisfactory programs.

Crisis Management. Much of a supervisor's decision to visit a local district is due not so much to some kind of complicated district selection process as it is being called in to deal with a particular crisis situation (for example, the threat of a parent to charge a district with noncompliance, inability of a district to establish appropriate programs, dissatification of a district with services obtained from a CESA or CHCEB). While these activities consume considerable time, they are essential to overall program success. Both supervisors and local school officials alike agree that the ability of the Bureau and Division to assist in resolving these ad hoc crisis situations is perhaps one of their most significant functions.

Disbursement of State Aids

Claims for aid reimbursement, once approved are paid out of the Bureau for Aids Administration of the Division for Financial Aids. Supervisors in each disability area in the Bureau for Exceptional Children work closely with the personnel in the Bureau for Aids Administration throughout the vouchering and payment process.

Procedures. Each school district or intermediate educational agency prepares five sets of each plan of service for each disability area. The district retains one copy and sends the remaining four to the Division for Financial Aids prior to the August 15 reporting deadline. Of the four copies received by the Division, one copy is routed to and is retained by the individual supervisor responsible for monitoring and approving that district's program, one copy remains in the Division for Financial Aids, and the remaining two are routed as circulating sets (especially important where several supervisors may be involved in monitoring programs serving younsters with two or more disabilities). One of the circulating copies is subsequently approved and is returned to the district where it will be retained, and resubmitted in August, one year later, as the district's claim for reimbursement for services.

Division for Handicapped Children staff are to certify teacher and paraprofessional licensing, assure that enrollment reports are accurate and approve special books and equipment costs.

Most districts do not submit their plans of service in all disability areas as a unit. Thus, monitoring and claims approval is done on a program unit basis rather than a school district basis. This procedure clearly makes it more difficult to review a district's entire program.

For each claim submitted, Division for Financial Aids staff will note the various Division for Handicapped Children disapprovals. These disapprovals are primarily of noncertified personnel being claimed for reimbursement. In addition, the aids staff will crosscheck the federal funding levels reported, first to determine if the federal reimbursement percentages are accurate and second to assure that the district has prorated its reimbursement claims against the state in those instances where more than 30% federal aid is received.

Enrollments must be crosschecked to assure that there are enrollments for each teacher reported. Occasionally, with educational agencies sending children out-of-district for services, a child will be claimed by both the sending and receiving district for transportation purposes or class enrollments. Such double reporting can be determined by reviewing disability or transportation forms for the two districts involved. This can be a tedious and time consuming process.

As a general rule, the claims for reimbursement submitted by the local educational agencies are taken at face value. There appears to be little if any actual auditing of district's claims of costs incurred in operating Chapter 115 programs. To the extent that exceptions have been taken to a district's claim, it has been the result of Bureau for Exceptional Children staff making on-site visits and inspections of vouchers. Bureau for Exceptional Children staff remarked that they had noted (and disapproved) questionable expenditures, but this activity was ad hoc and nonsystematic in nature.

Based upon our interviews with the program supervisors in the Bureau for Exceptional Children it was determined that claims are presently denied only in those instances where the instructional or support staff does not have proper certification. There is seldom an independent check either by Bureau for Exceptional Children or Division for Financial Aids staff on books and equipment expenditures or the method used to determine a child's eligibility for special transportation aids.

Districts are encouraged to make notations of any and all difficulties experienced in preparing their reports and claims. Many do, but most do not. This does not mean, however, that the forms submitted are without errors or misinformation. On the basis of our review, it is the rare form submitted which is "clean" and without need for revision. It is not uncommon for there to be considerable correspondence and telephone contact in order to get a claim prepared for payment. Approved claims are then vouchered and paid. Payments will be forwarded to a district as claims for an individual disability area are approved. Thus, a district will most likely receive several special aid payments during the year.

Claims certified to the Division for Financial Aids for reimbursement of senior level social workers and psychologists are vouchered with little, if any, review.

When special aids were under a sum sufficient appropriation, the full reimbursable sum was paid to the local district or intermediate educational agency. Under a sum certain appropriation since July 1, 1976, reimbursements of the full entitlement have not yet been possible. Under revised procedures, the Division for Financial Aids will voucher for payment one--half a district's entitlement upon approval of a district's claim. Then in the late winter or early spring, an additional one-quarter of the entitlement is vouchered and paid. The final payment will be made at year's end. If appropriated amounts must be prorated, it will be reflected in this final payment.

Areas of Concern. In our review of implementation activities in the Department, sixty-one districts were selected for claims review. As a result of our inspection of these claims, we found very few errors in the approval and vouchering process. However, there were other areas of concern.

First, the routing of claims between the aids staff of the Division for Financial Aids and the individual program supervisors is not always achieved in a timely fashion. Questions or problems raised by Financial Aids may not be answered or replied to for weeks at a time. In part this is explained by the fact that supervisors are out of the office a great deal or are busy processing other reports and claims to give a particular problem immediate attention.

Second, the claims approval and vouchering processes are highly centralized. In many instances, the bulk of the claims review process falls disproportionately on the shoulders of one staff member. Over dependence on one staff member resulted in a slowing of claims processing when she had to be absent from the office over an extended period in 1976 due to illness. This uneven distribution, in part, has been complicated further by a high turnover among support staff on the special handicapped aids staff.

Third, the entire procedure is done almost entirely by hand. The cost of special education classes in Wisconsin for the last year before recodification of Chapter 115 (1972-73) was $29,490,200. The Department has requested $79,332,200 to cover the expected costs for 1976-77 programs. Yet while costs have escalated $50 million over this period, Division for Financial Aids procedures for claims processing and disbursement have remained unaltered. In January, 1973, the Legislative Fiscal Bureau published a study of special education services in Wisconsin. In that report, the Bureau noted:

> The Department of Public Instruction currently files its data on handicapped programs and aids by disability. If information is desired on a district basis, claim forms for each of the ten programs, the individual forms for the specialists, and the SE-1 transportation form need to be reviewed. All of this work is done by hand and then annually transferred onto large ledger sheets for storage. Program approval and aid payments are made from the individual claim forms. Fortunately, the Department has a qualified staff that is responsible for this function. However, increased demands for programs (approximately 200 new class units are added per year) and additional demands for information strongly suggest that this entire system be modernized and placed on a data retrieval information system. Such a system would greatly enhance the Department's ability to analyze its programs on a current basis without requiring numerous man hours and much duplication of time and effort.

As a result, it was recommended that:

> To facilitate increased efficiencies in the aids and information section for handicapped, steps should quickly be taken to modernize the entire process.

Computerized certification lists, enrollment reports or aid computation seem no closer now than when they were first proposed several years ago. As a result, the aids payment process remains tedious, cumbersome and time consuming.

Fourth, a number of local educational agencies do not submit their claims for reimbursement to the Department until after the deadline for filing such materials.

The combination of these factors has contributed to a rising backlog of unpaid aid claims by the end of the fiscal year. Table X indicates that a growing number of local education agencies have not been able to receive their entire aid payment in the year following the operation of the special education program, but in fact received some payment as late as two years after program operations.

Table X
AID PAYMENTS MORE THAN ONE YEAR IN ARREARS

	Amounts	Number of Claims	Number of Local Education Agencies
1973-74 Claims Paid in 1975-76	$206,592.49	12	11
1974-75 Claims Paid in 1976-77	$1,780,106.50	96	93

These figures do not represent addendum or supplemental payment made as a result of amending claims. With triple vouchering procedures presently in effect in the Division, it may be reasonably expected that an even larger amount of aids will be paid more than one year in arrears on 1975-76 claims.

This chapter has reviewed various Chapter 115 implementation activities in the Department of Public Instruction. This review has focused on the Department's informational activities, rules promulgation, program monitoring and aids reimbursement. In Chapter IV, we will turn to a review of aspects of Chapter 115 implementation by local school districts, s. 66.30 cooperatives, county handicapped education boards, and cooperative educational service agencies.

Findings

1. The Bureau for Exceptional Children in the Division for Handicapped Children collects and compiles large volumes of information relative to Chapter 115 activities in the State of Wisconsin. While much of this information is accurate and useful, both to Chapter 115 and the public at large, some must be carefully reviewed. The Bureau's reports of rates of incidence, number of children served and the increases in service to such children are based on duplicated headcounts, estimated rates of incidence, and changing rates of incidence.

2. Rules promulgated have been comprehensive for those areas covered. Rules were first drafted to cover screening and evaluation activities; only in recent months have rules been brought to hearing stage which provide operational definitions for the disability areas being served. Certain important areas, such as the responsibilities and requirements of psychologists and social workers still have not been covered by administrative rule. Chapter 115 related rules generally have been fairly broad in their construction and do not generally appear to have altered the intent of any part of statute.

3. In contrast to official rules, internal Division for Handicapped Children policy does seem to have altered statutory intent. Under Division

policy, full 70% reimbursement may be authorized for teachers who under special circumstances devote but 85% of their time to special education activities. Policies of the Division of Instructional Services allow full 70% reimbursement for social workers and psychologists devoting 90% of their time to EEN students.

4. Program consultants in the Bureau for Exceptional Children perform their duties effectively despite the immense time demands placed upon them. Most staff devote their time to program development, program monitoring and approval, and crisis management activities. Program monitoring, particularly the compliance aspects of such review, takes up increasing amounts of time. Frequent requests to deal with crisis situations in general makes it difficult for staff to conduct systematic reviews of the programs under their jurisdiction.

5. Although Bureau supervisors have the authority to recommend to their supervisors that special handicapped aid be denied to a school district operating programs at variance with administrative rules, this authority has seldom been used. The result has been to make it more and more difficult to recalcitrant districts to be brought into compliance. Inability to use this authority in certain instances has adversely affected staff morale.

6. Claims monitoring and approval, while a relatively error free process, are overly centralized and cumbersome. A handful of individuals must process by hand hundreds upon hundreds of claims, most of which are incomplete or are incorrectly prepared. Constant rechecking of information between the Division for Handicapped Children and the Division for Financial Aids, the seeming inability to convert a portion of the data into machine readable form, and current multiple vouchering procedures significantly slow the aid computation and payment process.

7. Claims submitted are seldom subjected to independent field audit.

8. There is a growing trend towards late payment of handicapped aids to local education agencies.

CHAPTER IV

IMPLEMENTATION OF CHAPTER 115

Section 115.83 of the statutes permits certain types of educational agencies, alone or in consortium, to offer special educational services to handicapped youngsters. Approved programs of service under Chapter 115 may be offered by any local school district in the state, a combination of several districts under s. 66.30 of the statutes, a county handicapped children's education board (CHCEB) or a cooperative educational service agency (CESA). This chapter considers the widely varying experiences of these different educational units in providing special services to handicapped children. The chapter following focuses on specific implementation issues faced in common by all of these local or intermediate educational agencies.

In addition to certain aggregate statistics available through the Division for Handicapped Children, data for this and the succeeding chapter were gathered from two sources: (1) inspection of education agency plans of service and financial claims; and (2) on-site visits to selected districts or intermediate units. From the total of 436 districts, a sample of thirty-three local school districts was generated. To the resulting group of thirty-three districts, four s. 66.30 cooperatives and five CESA's were selected for consideration. All county handicapped children's education boards were included, bringing the total number of educational units reviewed to sixty-one. Of these units, nine school districts, one s. 66.30 cooperative, five CHCEB's and two CESA's were picked for visits by the Special Committee on Education Program Review staff. Table I lists both the sampled districts and those selected for visits.

TABLE I

SCHOOL DISTRICTS AND INTERMEDIATE
EDUCATIONAL AGENCIES REVIEWED AND VISITED

Local Educational Agencies (County)
(County)

Chippewa Falls (Chippewa)
Columbus (Columbia)
Cudahy (Milwaukee)
Glendale Jt. #1 (Milwaukee)*
Grafton (Ozaukee)
Green Bay (Brown)
Highland (Iowa)
Hudson (St. Croix)*
Kenosha (Kenosha)
Kiel (Manitowoc)
Madison (Dane)
Merton Jt. #4 (Waukesha)
Milwaukee (Milwaukee)*
Monroe (Green)*
Mt. Horeb (Dane)*
Muskego (Waukesha)*
Norwalk (Monroe)
Oshkosh (Winnebago)*
Pittsville (Wood)
Platteville (Grant)
Racine (Racine)
Shorewood (Milwaukee)*
Spencer (Marathon)
Stanley (Chippewa)
Sun Prairie (Dane)
Superior (Douglas)
Watertown (Jefferson)*
Wausakee (Marinette)
Wausau (Marathon)
West Bend (Washington)
Whitefish Bay (Milwaukee)*
Wilmot UHS (Kenosha)
Winter (Sawyer)

66.30 Consortiums

Hartford/Erin
Kenosha County (Western districts)
Northshore consortium (Milwaukee)*
Winneconne/Omro

Cooperative Educational Service Agencies (CESA's

CESA #4 (Cumberland)*
CESA #6 (Chippewa Falls)
CESA #13 (Waupun)
CESA #14 (Fennimore)*
CESA #19 (Milwaukee)

County Handicapped Children's Education
Boards (CHCEB's)

Barron County*
Brown County
Calumet County
Columbia County
Dane County*
Door County (now defunct)
Green County*
Jefferson County
Manitowoc County*
Marathon County
Outagamie County
Ozaukee County
Polk County
Racine County
Rock County
Shawano County
Sheboygan County
Walworth County
Waukesha County*

*Local educational agencies visited.

In turning to the implementation experiences of local educational agencies, it is appropriate to ask what has the statute accomplished? Clearly the number of plans of service has increased, Bureau for Exceptional Children supervisors travel and consult extensively, program costs have increased dramatically, more children appear to be receiving service. Table II indicates that in terms of instructional units and the number of children apparently being served, there has been important program growth since the recodification of Chapter 115 in 1973.

TABLE II

INCREASE IN PROGRAM UNITS BY DISABILITY AREA, 1972-77

	Program Units				
Disability Category	1972-73	1973-74	1974-75	1975-76	1976-77
Educable mentally retarded	1,193.5	1,251.0	1,268.5	1,259.5	1,256.8
Trainable mentally retarded	312.0	350.0	391.0	388.5	425.0
Deaf/hearing impaired	151.0	162.0	171.0	180.0	198.0
Blind/visually impaired	55.0	57.0	66.0	70.0	79.0
Emotionally disturbed	151.0	201.0	298.0	410.0	548.0
Special learning disability	158.0	298.0	646.0	1,059.0	1,292.0
Speech or language impaired	554.7	580.0	772.0	802.0	925.0
School age parents	-0-	-0-	28.0	31.0	30.0
Physically multiply handicapped	74.0	113.5	138.0	190.0	208.0
Early childhood (generic)	-0-	-0-	11.0	109.0	146.0
TOTALS	2,649.2	3,012.5	3,789.5	4,499.0	5,107.8 (est.)
Number of children served	53,530	64,803	73,293	81,834	87,644 (51,789)*

*Unduplicated count (ages 3-21, less school age parents).

Inspection of the "children served" entry would suggest that there has been a substantial change in the number of children being served, but as pointed out in Chapter III, a portion of the increases is attributable to the multiple counting of youngsters. The figures presented do not represent discrete individuals being served; the figures do not reflect an unduplicated child count. Thus, it may be that since the passage of Chapter 115 it would appear that a significant portion of increased service is attributable to the fact that we are serving better through many classroom units, Wisconsin's children with multiple handicapping conditions.

The remainder of this chapter reviews in further detail the activities under Chapter 115 of local school districts, s. 66.30's, county handicapped children's education boards and cooperative educational service agencies.

Local School Districts

Both the legislative intent and the statutory language of Chapter 115 make it clear that the local school district is the principal agency for the placement and the provision of free, appropriate education to children with exceptional educational needs. As indicated before, this does not mean that the district had sole responsibility for programming; a child could be placed in the district or under certain conditions out of district in programs operated by other educational agencies. Thus, it was clearly the overriding purpose of Chapter 115 to insure that services were made available to the handicapped children of this state. The statute further mandated that full service to Wisconsin's handicapped youngsters be available by July 1, 1976.

Has Chapter 115 had an effect on the number of school districts offering programs to handicapped children? If we consider the probable increase in children served or the number of classroom units available, the law has had an impact. However, with the exception of two disability areas, the number of districts which have offered programs to handicapped children shows little increase. Table III presents the number of school districts offering special educational services by disability area over the 1972-76 period. Except in the categories of early childhood, emotionally disturbed and special learning disability, the growth in the number of districts offering programs has been negligible. A defacto ceiling has been reached for some disability areas as a result of some Division personnel being reluctant to approve new district programs. This policy appears to be based on two concerns, first, that incidence rates will not generally support additional district programs, and second, that there appears to be a conscious effort to establish new programs through cooperative educational service agencies (CESA's). This does not mean that children are going unserved, rather it suggests that many children are now being served out-of-district by other educational units. Thus, it would appear that Chapter 115 has not altered the educational landscape in terms of causing more school districts to offer programs except in the early childhood, emotionally disturbed and learning disability categories.

In general, local school districts offer programs of service in those disability areas with relatively high rates of incidence. A district will not normally establish a program if its handicapped population does not warrant it. Under these conditions, where a district has handicapped children but not in sufficient numbers to offer local programming, it will send its children with exceptional educational needs out-of-district. Thus, it is to be expected that only a relatively few school districts will offer programs outside of educable mentally retarded, learning disability and speech impairment categories. This expectation is supported by the data presented in Table III. Those districts offering more than these basic services tend to be urban districts with larger special education populations.

TABLE III

NUMBER OF WISCONSIN SCHOOL DISTRICTS OFFERING
SPECIAL EDUCATION SERVICES BY DISABILITY AREA
1972-76

Disability Category	1972-73	1973-74	1974-75	1975-76
Educable mentally retarded	195	190	191	194
Trainable mentally retarded	69	69	71	66
Special learning disabilities	48	71	116	179
Emotionally disturbed	29	31	47	68
Hearing impaired	15	15	15	17
Vision impaired	7	7	8	7
Physical/multiple handicap	12	14	18	20
Speech and language disability	156	162	180	184
Early childhood	-0-	-0-	-0-	27
Directors of special education	3	4	27	32

Where there has been growth in the number of districts offering programs has been in the emotionally disturbed and learning disability categories. Prior to the enactment of Chapter 115 relatively few districts offered programs for these disabilities. In part, this phenomenon may be explained by the fact that it is relatively difficult to determine precisely what constitutes a disability in each of these areas. In general, learning disabilities have been construed as "severe and unique learning problems within the child which significantly interfere with the ability to acquire, organize, or express information that are manifested in school functioning in an inability to read, write, spell or arithmetically reason to calculate". (DPI proposed rule P.I. 11.32(9)(g)(1).) Emotional disturbance has been construed as "emotional, social and behaviorial functioning that significantly interferes with the child's total educational program and development, including the acquisition or production, or both, of appropriate academic skills, social interactions, interpersonal relationships, or intrapersonal adjustment. The condition denotes intraindividual and interindividual conflict or variant or deviate behavior or any combination thereof, exhibited in social systems of school, home or community..." (DPI proposed rule, P.I. 11.32(9)(h)2.) The operationalization of these definitions has been and remains difficult. Bureau for Exceptional Children supervisors noted that local districts are frequently unable (or unwilling) to distinguish between children with learning disabilities or emotional disturbance.

Districts are nonetheless under obligation to serve youngsters with these disabilities. Yet because definitions of these disabilities remain relatively amorphous, and because the incidence rates for learning disabilities and emotional disturbance are uncertain, numerous program service problems have developed. The federal Bureau of Education for the Handicapped (BEH) has estimated a 2% rate of incidence for both disability categories; however, because of the relative difficulty of determining "learning disabilities," some districts have identified far more than two percent of their school age population. To prevent this situation, the Education for All Handicapped Children Act of 1975 (P.L. 94-142) has made the learning disability incidence rate of 2% an absolute ceiling. Nonetheless, many school districts have simply placed all students together (emotionally disturbed and learning disabled) as "learning disabled" if they possess any kind of perceptual or behavioral disability. The relative ease of defining a child as "learning disabled" coupled with the Chapter 115 requirement of serving all handicapped children has resulted in a rapid increase in the number of school districts offering LD services and the number of such units being taught.

Two related problems have also been observed. First, a number of school districts have identified as learning disabled children a full 2% of their students in a given year. Certain of these youngsters then leave the program while an additional number of students are newly identified and placed as

learning disabled. Thus, over a period of years significantly more than two percent of the district's entire student population becomes defined as learning disabled. Second, some districts have served their emotionally disturbed populations through learning disabled programs. Because emotionally disturbed children are frequently difficult children to serve, close supervision and special facilities may be necessitated. More often than not these requirements are troublesome and quite expensive. Rather than identifying emotionally disturbed children as such, it has proven an expedient to define them as learning disabled and to serve them through those programs.

Although the expected rates of incidence for the emotionally disturbed and the learning disabled are the same, Wisconsin school districts are lagging behind in offering services to ED youngsters. It appears that many of these children are presently being inappropriately placed or not served at all. Figures released by the Division for Handicapped Children for 1975-76 indicate that only 27.3% of the estimated incidence of emotionally disturbed children were being served (an incidence rate set at 1.5% rather than at the BEH level of 2%). In contrast, some 61.2% of the estimated incidence of learning disabled youngsters were being served. Maps I and II graphically illustrate that relatively few districts offer programs for the emotionally disturbed youngster, while the learning disabled population enjoys far more extensive service.

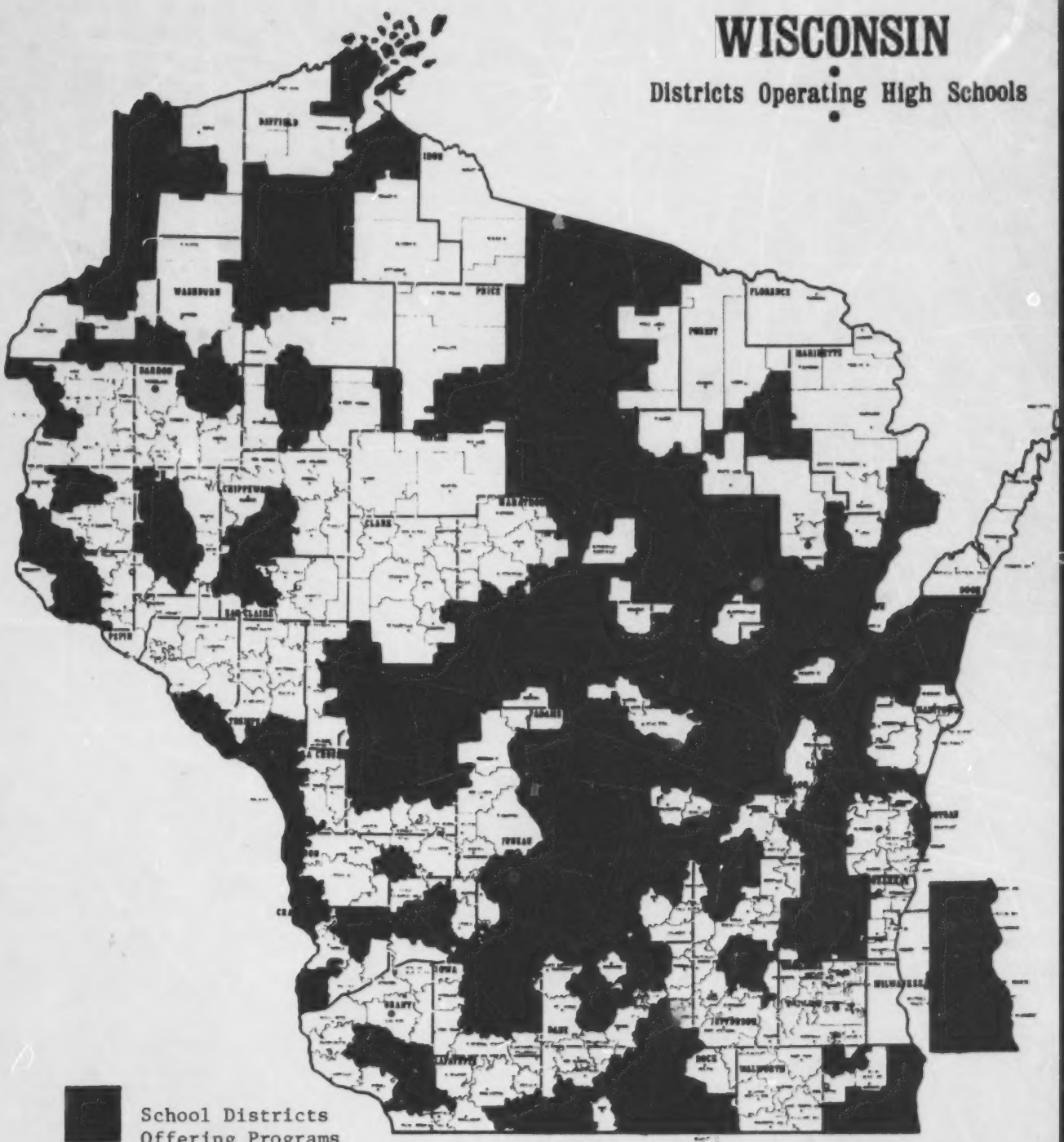
Cooperative Agreements Under s. 66.30

Several school districts in Wisconsin have elected to provide educational services to children with exceptional educational needs by entering into cooperative agreement under s. 66.30. This section of the statutes, relating to intergovernmental cooperation, provides in paragraph (2) that:

> Any municipality may contract with another municipality or municipalities or the state or any department or agency thereof for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by statute.

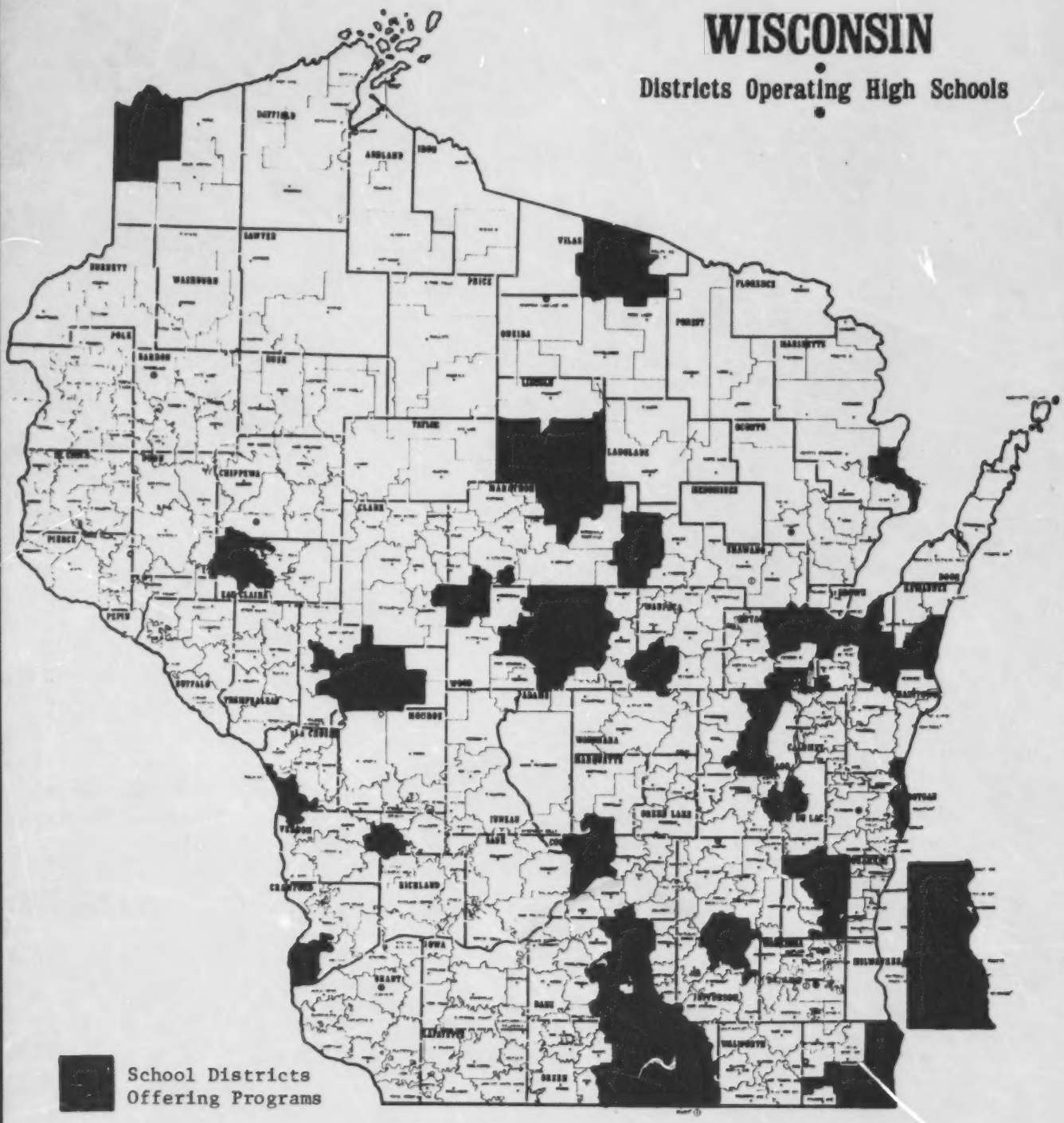
School districts have resorted to these cooperative agreements to provide appropriate services under Chapter 115 and to share costs on the basis of services rendered or received. Districts pay only for the educational services actually received and only in proportion to their participation.

Districts elect to participate in s. 66.30 agreements pursuant to a contractual agreement entered into by the boards of education of each affected educational agency. These agreements establish the programs of service to be offered, designate the operating school district, and prescribe a "fiscal agent" responsible for the financial management and the claims reporting of the consortium. Some school districts (particularly those in Milwaukee County) see s. 66.30 agreements as allowing them to establish local, "mini-CESA's". The same types of programs as would be available through CESA contracts may be offered locally but with complete local control maintained. Furthermore, the s. 66.30 route permits a district to benefit from programs it could not otherwise offer on its own (like a CESA contract) but not be required to pay administrative surcharges for such services (unlike a CESA contract). Table IV lists by disability area those Wisconsin school districts currently participating in s. 66.30 agreements in 1976-77.



MAP I

LOCAL SCHOOL DISTRICTS OFFERING PROGRAMS
FOR THE LEARNING DISABLED, 1975-76



MAP II

LOCAL SCHOOL DISTRICTS OFFERING PROGRAMS
FOR THE EMOTIONALLY DISTURBED, 1975-76

TABLE IV

S. 66.30 PROGRAMS IN WISCONSIN
FOR THE SCHOOL YEAR 1976-77

Name of Fiscal Agent	Names of Participating Districts
Educable Mentally Retarded	
Nekoosa	Port Edwards
Clear Lake	Clayton
Osceola	St. Croix Falls
Paris Jt. #1	Bristol Jt. #1, Brighton Jt. #1
Denmark	Wrightstown Community
Weyauwega-Fremont	Manawa
Wheatland Jt. #1	Twin Lakes Jt. #4, Randall Jt. #1, Silver Lake Jt. #1, Salem Jt. #9
Winneconne Community	Omro
Lodi	Poynette
Fox Point Jt. #8	Brown Deer, Fox Point Jt. #2, Glendale, Nicolet High School, Shorewood, Whitefish Bay
Nicolet High School	Brown Deer, Shorewood, Whitefish Bay
Whitefish Bay	Brown Deer, Fox Point Jt. #2, Fox Point Jt. #8 Glendale Jt. #1, Nicolet High School, Shorewood
Trainable Mentally Retarded	
Manawa	Weyauwega-Freemont, Iola-Scandinavia
Ladysmith-Hawkins	Bruce, Flambeau (Tony), Weyerhaeuser
Glendale Jt. #1	Brown Deer, Fox Point Jt #2, Fox Point Jt. #8, Nicolet High School, Shorewood, Whitefish Bay
Special Learning Disability	
Shorewood	Brown Deer, Fox Point Jt. #2, Fox Point Jt. #8, Glendale Jt. #1, Nicolet High School, Whitefish Bay
Emotionally Disturbed	
Ladysmith-Hawkins	Flambeau (Tony), Bruce
Brown Deer	Fox Point Jt #2, Glendale, Nicolet High School, Shorewood
Shorewood	Brown Deer, Fox Point Jt #2, Fox Point Jt #8, Glendale Jt. #1, Nicolet High School, Whitefish Bay
Deaf	
Shorewood	Brown Deer, Fox Point Jt #2 Fox Point Jt #8, Glendale Jt. #1, Nicolet High School, Whitefish Bay
Speech	
Lake Geneva Jt. #1	Lake Geneva-Genoa City
Delavan-Darien	Darien Jt #7
Brown Deer	Fox Point Jt #2, Glendale Jt #1, Nicolet High School, Shorewood
Early Childhood	
Algoma	Kewaunee, Luxemburg-Casco
Brown Deer	Fox Point Jt#2, Glendale Jt #1, Nicolet High School, Shorewood
School Age Parent	
Lake Geneva-Genoa City	Lake Geneva Jt #1
Leadership Personnel	
Algoma	Kewaunee, Luxemburg-Casco

Districts provide services under s. 66.30 for a variety of reasons. First, in the case of small districts with few handicapped children in a relatively high incidence disability area, it may be possible to provide a program of service efficiently and economically with other nearby districts which also do not have sufficient numbers of children for a program offering. Together it becomes feasible for two or more districts to offer services. Programs can be provided relatively close to home, costs may be shared in proportion to use, and children participating in cooperative programs may still be counted locally for membership purposes. (If the child were sent out-of-district on a tuition basis, he/she could not be counted for the purpose of membership.) Second, and related to the first point, in urban areas with relatively large concentrations of students, there may be a sufficient number with low incidence disabilities (for example, hearing impairment) to permit the offering of programs. While no single district could offer these relatively high cost programs, through cooperative agreements the idea makes sense. Finally, some districts simply have had a long history of cooperative endeavors. Section 66.30 arrangements are a logical extension of what heretofore have been informal or ad hoc arrangements.

Workable s. 66.30 agreements must clearly set forth the programs to be offered, the services to be provided by the participating districts, and the specifics of billing and reporting. Where agreements do not clearly indicate these details, s. 66.30 arrangements produce administrative difficulties. For example, our review of Chapter 115 offerings under s. 66.30 for Milwaukee County's northshore consortium (Brown Deer, Fox Point Jt. #2, Fox Point Jt. #8, Glendale Jt. #1, Glendale-Nicolet UHS, Shorewood and Whitefish Bay) revealed a variety of services being offered, but a complicated administrative support structure and fiscal arrangement. Programs are operated by the consortium in early childhood, hearing impairment, educable mentally retarded, trainable mentally retarded, emotional disturbance, and specific learning disability categories. However, rather than there being a common "fiscal agent" for all members of the consortium, each district which operates a Chapter 115 program open to the students of the other districts also acts as its own fiscal agent. In the instance where several districts may operate programs in a disability area, each district serves as a fiscal agent. Table V indicates those districts which are fiscal agents for program offered by the northshore consortium.

It is clear that not all districts participate in each of the programs offered. Furthermore, a variety of districts serve as fiscal agents under this agreement. In some cases there may even be multiple fiscal agents in one disability area. The results of this arrangement have been the submission of duplicate enrollment reports, overlapping of plans of service, and an inability of either the Division for Handicapped Children or the Division for Financial Aids to unravel the multiple claims for special handicapped aids which have been submitted. When there are district operated programs along with s. 66.30 cooperative programs, when some districts participate selectively in s. 66.30 offerings, and when there are multiple fiscal agents even within the same disability area, the s. 66.30 agreement becomes an impediment to efficient administration of Chapter 115 programs. Our review has determined that in the case of s. 66.30 special education cooperative agreements, these administrative concerns deserve careful attention.

TABLE V

MILWAUKEE COUNTY NORTH SHORE 66.30
PROGRAMS OPERATED AND FISCAL AGENTS
1976-77

Disability Category	Brown Deer	Fox Point Jt. #2	Fox Point Jt. #8	Glendale Jt. #1	Glendale-Nicolet Union High School	Shorewood	Whitefish Bay
Early Childhood	FA	X		X	X	X	
Hearing Impaired							
Deaf	X	X	X	X	X	FA	X
Educable Mentally Retarded							
elementary	[FA]						
intermediate	X	X	FA	X	X	X	X
junior high	X	X	X	X	X	X	FA
senior high	X				FA	X	X
Trainable Mentally Retarded				FA			
Emotionally Disturbed							
resource room	FA	[FA]		[FA]	X	X	
self-contained (grades 1-5)	X	X	X	X	X	FA	X
self-contained (grades 6-8)	FA	X		X	X	X	
self-contained (grades 9-12)	FA	X		X	X	X	
Special Learning Disability							
resource room (grades 1-8)	[FA]						
resource room (grades 9-12)					[FA]		
resource room (grades 1-6)		[FA]					
resource room (elementary)			[FA]				

Disability Category	Brown Deer	Fox Point Jt. #2	Fox Point Jt. #8	Glendale Jt. #1	Glendale-Nicolet Union High School	Shorewood	Whitefish Bay
Special Learning Disability (cont.)							
resource room (grades 1-12)	X	X	X	X	X	FA	X
resource room (grades 1-6)				[FA]			
resource room (grades 1-3)							[FA]
self-contained (grades 7-12)							[FA]
Speech and Language Disability	FA	X	[FA]	X	X		[FA]

FA = Fiscal Agent
[FA] = Fiscal Agent for own program
X = Participant in agreement

County Handicapped Children's Education Boards (CHCEB's)

County handicapped children's education boards are the last vestige of county involvement in elementary and secondary education in Wisconsin. In 1965, the state began moving away from county educational responsibilities by abolishing county school superintendents and by providing for the establishment of cooperative service agencies. Chapter 125, Laws of 1971 eliminated county teachers' colleges; in 1973 the requirement that counties levy a tax to support elementary classrooms was removed. Thus with the recodification of Chapter 115, county special education functions were the sole remaining county instructional activity.

County handicapped children's education boards are organized pursuant to s. 115.86 of the statutes. This section permits a county board of supervisors to establish a CHCEB consisting of between three and five members selected by the county board or appointed by its chairman. Members need not be drawn from the county board of supervisors or from a local school board, but they must be electors from the area served by the CHCEB. County experiences regarding the membership on CHCEB's differ considerably. For example, Barron and Green Counties have composed boards exclusively of county supervisors while other counties (e.g., Dane County) have extensive citizen membership.

The CHCEB may, upon request by school districts within the county, provide an approved program of special education services consisting of special schools, classes, treatment or instructional centers. A county handicapped children's education board may also arrange to provide transportation services to and from its programs. Furthermore, the CHCEB "may do all things necessary to perform its functions", [s. 115.86(5)] including the employment of teaching and supporting staffs and the erecting of buildings and facilities. At the present time, county handicapped children's education boards have either constructed or acquired facilities in Brown, Green, Manitowoc, Racine, Rock, Sheboygan and Walworth Counties. In the remaining eleven counties, classes are housed within district facilities and not in separate county facilities.

Once a county handicapped children's education board has been formed to offer one or more special education programs, school districts in whole or in part within the county of service may elect to participate in one or more of those programs by formal resolution by the local school board [s. 115.86(2)]. County handicapped children's education boards like school boards or CESA's are eligible to have reimbursed by the state 70% of their approved special education costs. However, CHCEB's are not eligible to receive general state aids for children enrolled in their programs. Instead s. 121.135 provides flat aids in the amount of $88 per pupil and may be paid to the CHCEB for each child enrolled in county programs but not counted for membership purposes by a local school district. The unaided portion of the approved costs of operation of the county handicapped children's education board must be raised as part of the county's general tax levy. The tax for the maintenance and operation of each program component offered by the CHCEB and for the transportation of children to such offerings is levied only against those portions of the county participating in the part of the program [s. 115.86(9)]. Thus, if various districts avail themselves of different parts of the CHCEB's services, their tax levies will be different.

There are three principal factors which make county handicapped children's education boards attractive to local school districts. First, a district, by using CHCEB programs, may meet the mandates of Chapter 115 without having to institute its own programs of service. Second, the administration of program activities is at the county level thereby obviating

local special education administrative structures or activities. Third, the levy to cover the unaided costs for the operation of special education programs would be reflected on the county levy rather than on the school district levy.

The Legislature made provision for county handicapped children's education boards through the enactment of Chapter 298, Laws of 1957. Prior to that a number of counties (for example, Green County) had offered general services to handicapped children but received very little state support for those activities.

The original legislative intent behind the establishment of CHCEB's was to provide a mechanism whereby rural counties with relatively small populations of handicapped children could provide services to those children. Traditionally this has meant offerings in the field of mental retardation, with particular emphasis on programs for the trainable mentally retarded. In recent years, CHCEB's have begun to provide services for the learning disabled and emotionally disturbed. Table VI indicates the program offerings by CHCEB's over the 1972-76 period.

TABLE VI

NUMBER OF CHCEB's OFFERING
SPECIAL EDUCATION SERVICES BY DISABILITY AREA
1972-76

	School Year			
	1972-73	1973-74	1974-75	1975-76
Educable mentally retarded	13	13	13	12
Trainable mentally retarded	20	19	19	17
Special learning disabilities	6	7	10	10
Emotionally disturbed	3	5	8	8
Hearing impaired	1	1	1	-0-
Vision impaired	-0-	-0-	-0-	-0-
Physical/multiple handicap	1	2	3	3
Speech and language disability	10	10	11	10
Early childhood	2	2	2	8
Directors of special education	1	1	10	12

Although the county handicapped children's education boards were originally established with rural counties in mind, it has been the relatively populous areas of the state which have made the greatest use of them. During the 1960's counties in the populous southeastern portion of the state and along the shore of Lake Michigan established CHCEB's. Only a relative handful of counties in the central and northern part of the state constituted these boards. At present, most of the state's eighteen county handicapped children's education boards stretch in an arc from Madison, along the Illinois state line, around the Milwaukee metropolitan area, and up the Lake Michigan shore to Green Bay. Few of the rural counties for which the boards were established presently operate them. Map III indicates the CHCEB's existing during the 1976-77 school year.

Map III

WISCONSIN COUNTIES OPERATING HANDICAPPED CHILDREN'S
EDUCATION BOARDS, 1976-77

The number of CHCEB's which reached a high of twenty-five in 1970-71, has been declining ever since. At present there are only eighteen boards still in existence. In a number of rural counties, services once provided by a CHCEB are now being offered by the appropriate CESA. Table VII illustrates the relative decline in numbers of CHCEB's in recent years.

TABLE VII

DECLINE OF CHCEB's, 1970-76

	School Year			
	1970-71	1974-75	1975-76	1976-77
Functioning CHCEB's	25	20	19	18

The remaining county handicapped children's education boards vary widely in terms of both their vitality and their program offerings. Among the 18 existing CHCEB's, we find that there are three patterns of operations. First, there are those counties in which special education facilities have been constructed (for example, Walworth and Manitowoc Counties.) These facilities in most cases, provide service in a variety of disability areas to most if not all of the county's school districts. Second, there are those counties in which there are no facilities, but most if not all school districts rely on CHCEB services which are provided in the district's own facilities (for example, Waukesha County.) And third, there are those counties which have programs in which only some of the school districts participate or in which a school district and the county will offer different components of service in a single disability area (for example, Dane and Marathon Counties).

In our review of the different patterns of operation of county handicapped children's education boards, a number of problem areas have been encountered. Three areas of concern include the resolutions of participation which are adopted, the spreading of the tax levy, the payment of tuitions and late billings.

1. Resolution of Participation. The county clerk may spread a levy for support of a county handicapped children's education board over an area of the county only after a formal resolution by a school board setting forth the exact extent of that board's participation in county programs. In some counties reviewed, poorly drawn resolutions have resulted in a multitude of problems.

In Dane County an effort has been made to have the 14 participating school districts' resolutions conform in substance and format. In fact they do not. Several districts in the county acting in pursuance to the Department of Public Instruction administrative rule (P.I. 11.27) permitting the offering of special education classroom units at different prescribed grade ranges, have elected to participate in Dane County HCEB programs only at a specific grade level, reserving other levels for district operated programs (e.g., Oregon school district participates in secondary emotionally disturbed classes through the CHCEB and offers its own elementary emotionally disturbed classes). Other districts in Dane County indicate full participation but in fact operate their own programs (e.g., Sun Prairie's resolution shows full participation in the County's retarded (EMR) programs, but the district operates its own secondary EMR program.)

From the perspective of the Dane County clerk who must determine how to spread the levy to support CHCEB programs, he has only the formal resolutions as his authority. Unless a resolution states otherwise, he must tax for the entire program. Table VIII indicates the status of these resolutions for Dane County. In no case does a district indicate other than full participation.

In spreading the levy, the Dane County clerk has only the budgeted costs for all programs in a single disability area. He is not able to determine the costs of secondary level emotionally disturbed classes (the Oregon example) and spread those costs accordingly. Similarly, since Sun Prairie's resolution indicates full participation in the educable mentally retarded program, the clerk must spread the full EMR costs over the district. Even if Sun Prairie had indicated in its resolution that it wished to participate in county elementary EMR classes only, the clerk could not properly apportion costs (per the Oregon example).

A similar situation exists in Manitowoc County but with different results. There some districts have designed their resolutions to permit them to participate in secondary and elementary level programs, while others have indicated that they will participate only at the elementary level. Other districts in the County simply do not participate in CHCEB programs at all. The Manitowoc CHCEB furthermore has prepared a budget which reflects the different program costs at the elementary and the secondary level. Because the clerk has detailed resolutions of participation and cost breakdowns, he is able to apportion correctly the program costs.

2. Spreading the Levy. The proper apportionment of taxes to support the operations of county handicapped children's education boards is one of the most troublesome aspects of CHCEB operations. Only those areas of the county served by the school districts participating in CHCEB programs may be taxed for the programs (or parts of the programs) used. In the Dane County example, some districts are being billed for a portion of the levy even though they do not participate in the programs. In the case of Oregon, participating only in the county's classes for the emotionally disturbed at the secondary level and offering its own local program for grades 1 through 8, residents of that district are paying for their own program plus their share of the full county emotionally disturbed program. The situation is similar for the residents of Sun Prairie and several other districts in the county as well.

Furthermore, this situation may be cumulative in several respects. In the case of Sun Prairie residents pay for: (1) their local secondary EMR program; (2) their share of the county EMR program including the secondary EMR component; (3) that portion of administration and transportation charges attributable to the county secondary EMR program; and (4) tuition charges of other Dane County secondary EMR youngsters who do not attend county run classes but instead attend classes in another district. In effect, they are paying for the same or similar services four times over.

When there is less than universal participation of school districts in all program offerings of a CHCEB, spreading the levy can be an enormously complicated task. In counties like Waukesha with all districts participating in all programs, the levy is spread easily and uniformly across the entire county in proportion to each municipality's equalized valuation. Effectively in such counties the CHCEB operates as a "mini-CESA" with the added feature of having the power to tax (unlike a CESA).

TABLE VIII

SCHOOL DISTRICTS PARTICIPATING IN PROGRAM OFFERINGS
OF THE DANE COUNTY HCEB, 1976-77

School District	Administration/ Transportation	Educable Mentally Retarded (EMR)	Trainable Mentally Retarded (TMR)	Special Learning Disability (SLD)	Early Childhood (EC)	Emotionally Disturbed (ED)
Belleville	X	X	X	X	X	X
Black Earth (Wis. Hts.)	X	X	X	X	X	X
Cambridge	X	X	X	X	X	X
Deerfield	X	X	X	X	X	X
DeForest	X	X	X	X	X	X
Marshall	X	X	X	X	X	X
McFarland	X	X	X	X	X	X
Middleton	X	X	X	X	X	X
Monona	X	X	X	X		
Mt. Horeb	X	X	X	X	X	X
Oregon	X	X	X	X	X	X
Sun Prairie	X	X	X	X	X	X
Verona	X	X	X	X	X	X
Waunakee	X	X	X	X	X	X

Madison and Stoughton school districts do not participate in Dane CHCEB offerings. Those portions of Blanchardville, Columbus, Edgerton, New Glarus, Lodi, Sauk-Prairie and Waterloo school districts in Dane County also do not participate.

Where participation is not universal, the clerk must spread the levy over those areas of the county participating. Table IX indicates the levy for each disability area in Dane County. Nine school districts or portions of school districts do not participate in any of the offering of the Dane County HCEB. Additionally one other district, Monona Grove, does not participate in early childhood or emotionally disturbed classes but does in all other offerings. Thus, the levy for the program administration, EMR, TMR, and LD classes may be spread over only 35.8% of the county in terms of equalized valuation. For the early childhood and emotionally disturbed programs, the levy is spread over only 32.0% of the equalized valuation. Table IX provides a synopsis of the situation.

TABLE IX

DANE COUNTY HCEB TAX LEVY

	Levy 1976	Levy 1977	Increase 1977 over 1976 Amount	%	Equalized Val. of Areas Taxed	% of Co. Eq. Val.*
Administration/ Transportation	$250,994	$276,670	$25,676	10.2%	$1,651,772,550	35.8%
EMR	185,371	265,885	80,514	43.4	1,651,772,550	35.8
TMR	30,745	265,835	235,090	764.6	1,651,772,550	35.8
SLD	229,314	336,944	107,630	46.9	1,651,772,550	35.8
EC	22,272	87,876	65,604	294.6	1,474,788,700	32.0
ED	49,068	90,469	41,400	84.4	1,474,788,700	32.0
TOTAL	$767,764	$1,323,679	$555,915	72.4%		

*1976 equalized valuation of Dane County is $4,607,135,550.

In Manitowoc County, to cite another example, only 5 of the school districts in the county participate in the offering of the CHCEB. All five participate at the elementary level, while two, Manitowoc City and Two Rivers, operate their own programs at the secondary level. As noted above, budget costs in Manitowoc County are figured separately for elementary and for secondary classes. Thus the county clerk, in order to spread the levy appropriately, must first determine those areas covered in the County by CHCEB programs and must additionally levy two separate tax rates. Table X presents the results of these computations. The county clerk has correctly computed the levies in this case, but the process is an arduous and tedious one. Clerks in other counties visited where there was less than full participation in CHCEB programs cited the fact that computation of the CHCEB levy was considerably more difficult than for other levies.

If the county clerk successfully and correctly apportions the tax, and our review has determined that this is no certainty, tax bills must be forwarded to municipal clerks for apportionment among school districts. It is not uncommon for a municipal clerk to have to apportion taxes across three, four, or even five school districts within his municipality. In some cases those districts may participate in no CHCEB programs, in others there may be full participation, and in others still, there may be partial participation. The opportunities for error are many. Some county clerks in counties visited have cited examples of CHCEB apportionment errors at the municipal level.

Taxes are apportioned on a calendar year basis, while special handicapped aids are claimed and paid on a school year basis. The base periods are not only out of phase, but state reimbursement for all special education programs is one year delayed. These conditions complicate the CHCEB budget process by making it difficult to estimate future special aid receipts for the September-December period in the ensuing year. However, the major cause for concern with overlapping tax years and school years centers around a district's decision to withdraw from CHCEB programming. Section 115.86(7)(a) prescribes the conditions under which a district may rescind its resolution of participation. Such action may be taken only at the end of a school term, defined by s. 115.01(7) as June 30th of a year. The Department has determined that under certain conditions a district may be able to withdraw on January 1 of a school year. But this determination does not seem to be in keeping with s. 115.01(7). Upon withdrawal a district is obligated to provide special education services of its own. These services must be supported out of district revenues. Yet residents of that school district will have already been assessed for a full calendar year for participation in CHCEB programs. For the July 1 through December 31 period, residents must be double taxed. This has been the experience of the Stoughton school district during the period July 1, 1976-December 31, 1976, and will be for Verona, Middleton and Rothschild-Schofield district residents planning to withdraw from Dane and Marathon CHCEB programs.

3. Tuition Payments. Students from districts served by a CHCEB may attend equivalent programs on a tuition chargeback basis in non-CHCEB districts upon the approval of the state superintendent. Under the tuition chargeback arrangement, the receiving school district submits a tuition billing to the county special education director, who in turn incorporates these charges into his budget. Only those areas served by the CHCEB and not offering the program for which tuition is being billed will be assessed. In Dane County a number of emotionally disturbed youngsters attend classes in Monona Grove (not a member of the CHCEB for these services). This is despite

TABLE X
MANITOWOC CWCEB TAX LEVY

	Elementary Programs							Secondary Programs				
Towns	Manitowoc	Mishicot	Leedsville	Valders	Two Rivers	Total	%	Mishicot	Reedsville	Valders	Total	%
Cato			$3,703,600	$15,035,100		$18,738,700	2.26%		$3,708,600	$15,035,100	$18,738,700	10.42%
Centerville	$5,318,700					5,318,700	.64					---
Cooperstown		$252,000	680,500			932,500	.11	$252,000	680,500		932,500	.52
Eaton				8,144,700		8,144,700	.98			8,144,700	8,144,700	4.53
Franklin			14,103,800			14,103,800	1.70		14,103,800		14,103,800	7.85
Gibson		13,624,700				13,624,700	1.64	13,624,700			13,624,700	7.58
Kossuth	9,289,400	9,676,400	1,418,200			20,384,000	2.45	9,676,400	1,418,200		11,094,600	6.17
Liberty				16,415,500		16,415,500	1.98			16,415,500	16,415,500	9.13
Manitowoc	14,080,700					14,080,700	1.70					---
Manitowoc Rapids	30,949,300			4,477,400		35,426,700	4.27			4,477,400	4,477,400	2.49
Maple Grove			7,543,000			7,543,000	.91		7,543,000		7,543,000	4.20
Meeme												---
Mishicot		14,099,500				14,099,500	1.70	14,099,500			14,099,500	7.85
Newton	21,583,300			7,703,100		29,286,400	3.52			7,703,100	7,703,100	4.29
Rockland			7,146,500	4,145,200		11,291,700	1.36		7,146,500	4,145,200	11,291,700	6.29
Schleswig												---
Two Creeks		4,497,900				4,497,900	.54	4,497,900			4,497,900	2.50
Two Rivers	3,080,200	2,994,800			$15,801,000	21,885,000	2.63	2,994,800			2,994,800	1.67
Total Towns	$84,310,600	$45,145,300	$34,595,600	$55,921,000	$15,801,000	$235,773,500	28.39%	$45,145,300	$34,595,600	$55,921,000	$135,661,900	75.49%
Villages												
Cleveland												
Francis Creek		$4,089,100				$4,089,100	.49%	$4,089,100			$4,089,100	2.28%
Kellnersville			$2,210,900			2,210,900	.27		$2,210,900		2,210,900	1.23
Maribel												
Mishicot		12,102,200				12,102,200	1.46	12,102,200			12,102,200	6.73
Reedsville			7,441,100			7,441,100	.90		7,441,100		7,441,100	4.14
St. Nazianz				$4,483,700		4,483,700	.54			$ 4,483,700	4,483,700	2.50
Valders				9,164,100		9,164,100	1.10			9,164,100	9,164,100	5.09
Whitelaw				4,553,400		4,553,400	.55			4,553,400	4,553,400	2.53
Total of Villages	-0-	$16,191,300	$9,652,000	$18,201,200	-0-	$44,044,500	5.30%	$16,191,300	$9,652,000	$18,201,200	$44,044,500	24.51%
Cities												
Kiel											-0-	-0-
Manitowoc	405,317,400					405,317,400	48.80				-0-	-0-
Two Rivers					$145,339,400	145,339,400	17.50				-0-	-0-
Total Cities	405,317,400	-0-	-0-	-0-	$145,339,400	$550,656,800	66.30%	-0-	-0-	-0-	-0-	-0-
TOTAL	$489,628,000	$61,336,600	$44,247,600	$74,122,200	$161,140,400	$830,474,800	100.00%	$61,336,600	$44,247,600	$74,122,200	$179,706,400	100.00%

the fact that the county does offer ED programs of its own. Thus, county children attending Monona Grove's emotionally disturbed classes will have the tuition charge spread over the entire CHCEB service area exclusive of the Monona Grove school district.

Our review has determined that approval for transfers in Dane County has seldom been requested of the state superintendent. According to law [s. 115.87(6)], if there is not approval of the transfer by the state superintendent, tuition charges should be directed to the school district rather than be apportioned across the county. For the county clerk there has been confusion as to whether this charge should be directed back to the local school district of residence or to the county handicapped children's education board. In most cases, where a tuition billing has been received, the local school district has been taxed (even though residents of that district have already been taxed for the support of the appropriate county program.) Furthermore, transfers have often been effected with no subsequent billing to the county handicapped children's education board. In effect, the receiving school districts have been educating nonresident children at no charge. In other cases tuition waiver agreements have apparently been entered into although the statutes allow this procedure only in Milwaukee County [s. 115.87(5)(b)].

Section 115.87(6)(m) provides that a school district which overlaps two or more counties with CHCEB's offering the same programs may, under certain conditions, send all their students to one of the county programs. In order to do this, a county program must be offered in one of the facilities of the school district. The district may withdraw from the CHCEB not offering services in the district's facilities and send its children into the programs of the CHCEB which does provide services in district facilities. But, under this arrangement, tuition is assessed over the entire school district and is paid to the CHCEB offering programs in district facilities. Once again, the result is double taxation, since residents of a portion of the district will have been taxed once to support an existing county program and then again to support tuition costs of those district children living in the other county. Muskego residents, for example, are double taxed under this arrangement. The district straddles the Waukesha-Racine county lines. Both counties offer EMR programs; however, Waukesha CHCEB does provide services in one of Muskego's buildings. Accordingly, the district has withdrawn from Racine CHCEB's educable mentally retarded programs and has educated its Racine County youngsters in the Waukesha County program. Tuition charges have been assessed district-wide and then paid by the district to Waukesha CHCEB. The assessment is appropriate for the Racine county residents of Muskego district but is inappropriate for the Waukesha county residents of the district who have already been taxed to support the Waukesha CHCEB program for the educable mentally retarded. The number of children involved in these situations is small, but the case does highlight the complexities of CHCEB related taxing issues.

In a county with districts not participating in CHCEB programs, children may attend CHCEB programs from these areas on a tuition basis. Under those circumstances, the tuition charges are spread across all areas of the county outside the CHCEB service area. [s. 115.87(4)]. In our review of tuition billing practices in selected counties, the proper procedures were not always followed. In Manitowoc and Dane Counties, for example, it has not been uncommon for the clerk to levy the tuition charges only against the area of the school district in which the student resides.

4. Late Billing. In those instances where a district or county

handicapped children's education board has sent children into other districts for programs of service, the receiving school district has not submitted its tuition bills in a timely fashion. In Dane County for school year 1975-76, Madison school district's billing for $184,376.04 was submitted after the 1976 tax bills had been sent by the county clerk to the municipalities. As a result, Madison will not receive payment until 1978 when county taxpayers (outside of Madison) will be assessed for this billing. If Madison bills in a timely fashion next year at approximately the same level, county tax payers will be faced with nearly a $400,000 increase alone over this year's levy. Green County has also had to contend with late billings, but in that jurisdiction the county clerk estimated the amount he expected to be billed and included that estimate in the tax levy.

5. Other Issues. In Barron, Calumet, Polk and Shawano Counties the operation, administration and management of county handicapped children's education programs have been contracted out in their entirety to the regional CESA. All instructional activities for these CHCEB's are now coordinated and conducted through the contracting CESA. Although the county clerks still receive state aid payments as they would if the CHCEB were operating programs, these payments are forwarded directly to the CESA. Likewise, the $88 flat aid payments to the CHCEB flow through the county clerk to the CESA. For all intents and purposes, these CHCEB's have ceased to exist. They continue as legal entities apparently for the sole purpose of taxing county residents for the unaided 30% of approved program costs and for the collection of the $88 flat aid payments.

In some instances the $88 flat aid payments in these four counties have occasioned some confusion. CHCEB's may claim the flat aids for those children in county-owned special education facilities or those who attend county classes in district facilities and who are not counted for memebership by the local district. (These would be children attending county classes in district facilities who were not residents of that district.) Because children in CESA programs may be counted as members for general aid purposes by the child's school district of residence even though the youngster may be educated out-of-district, some districts in these four counties have attempted to claim improperly all of their youngsters attending CHCEB classes out-of-district for membership. The claim would be proper if the children were in CESA programs, but they are still legally in CHCEB programs even though CESA operates them.

Cooperative Educational Service Agencies (CESA's).

The 19 cooperative educational service agencies (CESA's) may offer services under Chapter 115. Two mechanisms for the provision of service are available through a CESA: (1) services offered under regular contract to a district; or (2) services offered through a CESA "package" plan.

The regular contract is essentially a direct contract with CESA, in which CESA provides all services and activities specified in the agreement. Districts are billed for services in proportion to their use of such services. When the CESA is reimbursed by special or other aids for program operations, local districts shall receive a share of those aids in proportion to their use of services. The CESA "package" plan permits a local district to establish a local program of service which it then sells to CESA. In turn CESA sells this program to those districts wishing to participate. Again charges for service and aid reimbursements are made in proportion to services used. The principal difference between the regular contract and the "package" plan is the degree

of local control over program direction and emphasis. Under the regular contract, the CESA essentially structures the program offering; under the "package" plan a district is responsible for establishing the program which is then made available to other local districts through CESA.

Table XI indicates the number of CESA's offering services to Wisconsin school districts by disability areas. CESA program offerings under Chapter 115 are most common in rural parts of the state. In some areas, in fact, CESA programs have grown quite rapidly, even displacing county handicapped children's education boards. In urban counties, CESA activities under Chapter 115 are minimal. In Milwaukee and Ozaukee Counties, because of the existence of strong local special education programs in Milwaukee, active s. 66.30 consortiums in the northern and southern suburbs of the city, and the active CHCEB in Ozaukee County, CESA 19 provides only the most limited Chapter 115 services (transportation in the southern part of the county). The comprehensive program of services offered by the Waukesha CHCEB has effectively preempted CESA 16 from offering services in that area.

TABLE XI

NUMBER OF CESA's OFFERING SPECIAL
EDUCATION SERVICES BY PROGRAM AREAS, 1972-76

	School Year			
Disability Category	1972-73	1973-74	1974-75	1975-76
Educable Mentally Retarded	10	10	10	13
Trainable Mentally Retarded	9	10	10	11
Special Learning Disabilities	1	5	8	12
Emotionally Disturbed	1	1	1	7
Hearing Impaired	--	1	1	3
Vision Impaired	--	--	2	2
Physical/Multiple Handicap	1	1	2	3
Speech and Language Disability	19	19	18	16
Early Childhood	--	--	--	10
Directors of Special Education	--	--	17	17

CESA's have traditionally provided service to educable and trainable mentally retarded youngsters, but in recent years they, like other educational agencies, have begun to offer services to special learning disabled and emotionally disturbed children. The number of CESA special education directions funded by Chapter 115 has also increased dramatically.

As part of this review, two CESA's were visited; in both cases, examples of improper billing and aids reimbursement procedures were found for programs established under Chapter 115. In CESA #4, a number of school districts in Barron County have provided services under CESA contract to educable mentally retarded and special learning disability youngsters. These programs are not part of the Barron CHCEB discussed earlier. The CHCEB, which has contracted out to CESA, offers classes to the trainable mentally retarded. The school districts of Barron, Cameron, Chetek, Cumberland, Prairie Farm, and Turtle Lake have formed a Northwest Joint Educational Consortium for this purpose. For 1974-75 programs (reimbursed in 1975-76), the costs of the educable mentally retarded and learning disabled programs were combined into a single budget (rather than treated separately as required.) Charges for the program were assessed against member districts in proportion to overall membership rather than in proportion to the number of pupils participating in the programs of service (as required by law.) As a result, some districts, paid too much for services, while others paid too little. Table XII provides a synopsis:

TABLE XII

NORTHWEST JOINT EDUCATION CONSORTIUM
CHARGES TO DISTRICTS, 1975-76

School District	1974-75 Membership	% of 1975-76 Membership	Cost Based on %	Number of EEN Pupils	% of EEN Participants	Costs Bas on EEN Pup
Barron	1,674	28.149%	$63,474.02	53	26.108%	$58,871.
Cameron	680	11.434	25,782.87	12	5.911	13,328.
Chetek	1,152	19.371	43,680.25	37	18.227	41,100.
Cumberland	1,276	21.456	48,381.78	54	26.601	59,983.
Prairie Farm	430	7.231	16,305.40	16	7.882	17,773.
Turtle Lake	735	12.359	27,868.68	31	15.271	34,435.
TOTALS	5,949	100.000%	$225,493.00	203	100.000%	$225,493.

Had costs been properly apportioned based upon student participation in Chapter 115 programs (rather than on the proportion of the district's membership of total consortium membership),

Barron would have paid	$4,602.31	less;
Cameron would have paid	$12,453.98	less;
Chetek would have paid	$2,579.64	less;

while

Cumberland would have paid	$11,601.61	more;
Prairie Farms would have paid	$1,467.96	more; and
Turtle Lake would have paid	$6,566.36	more.

Furthermore, as a result of costs being improperly computed, so too was the reimbursement of special handicapped aids. Barron, Cameron and Chetek received too much special handicapped aids, while Cumberland, Prairie Farms and Turtle Lake received too little. The Division for Financial Aids has discovered these improper billings and reimbursement procedures and has taken steps to correct them. However, our review of CESA #14 Chapter 115 programs suggests that their billings and reimbursement procedures are similarly improper--being tied to total district membership rather than to program use.

Tuition and Membership

In our review of Chapter 115 activities, tuition chargeback procedures and student membership counts were found to be a continuing source of difficulty and confusion. Not infrequently, county clerks have assessed the incorrect areas of the county for tuition purposes. The Department of Public Instruction's Division for Financial Aids has also encountered numerous instances of miscounting children for membership purposes. Some of the reasons for such difficulties are described below.

1. Tuition Chargeback. In general, if a local school district or county handicapped children's education board does not operate an appropriate special education program, a handicapped youngster may be placed in another school district or CHCEB on a tuition chargeback basis. Under very special circumstances with the express approval of the state superintendent a child may be placed out-of-district in an program equivalent to one offered by his own district of residence. Here, too, the placement is handled on a tuition basis.

The receiving school district or CHCEB is responsible for the computation of tuition charges using the formula provided by s. 115.87(3). A district may compute reasonable building and instructional costs, subtract the sum of appropriate federal, state and county aids and then divide the difference by the number of Chapter 115 children in average daily attendance. Upon the determination of building charges per day, and per pupil cost per day, it is possible to compute the tuition charge due for each child.

In Wisconsin, tuition charges are to be paid either by the county of the child's residence or by his school district. In counties other than Milwaukee, students attending special education programs in another school district will have the tuition paid by the county not providing the appropriate special education program. The tuition charge is to be spread only over those portions of the county in school districts which do not offer the appropriate program of service. The county serves as the tax base rather than the school district of residence. The rationale for this arrangement appears to date from that period in Wisconsin history when there were over 7,700 school districts. Tuition charges against such small districts could be quite burdensome, so the charge was spread over the county which could more easily absorb the cost.

Similarly, a student residing in an area served by a county handicapped children's education board but attending (with the state superintendent's approval) an equivalent program elsewhere will have the tuition charges paid by the CHCEB of residence and assessed against those portions of the county board offering the appropriate special education program [s. 115.87(5)(a)]. Under certain circumstances school districts in Milwaukee County may waive tuition payments altogether. Any two or more boards, may admit residents of the other school districts to special edcuation program and by agreement of the boards forego all tuition claims. All costs associated with these programs will thus be assessed against the equalized valuation of the local school district [s. 115.87(5)(b)].

Our review of tuition billing procedures has determined that it is not uncommon for the county clerk to misapply the tuition charges across portions of his county liable for assessment. The most common errors were either to levy across the entire county (not excluding districts offering comparable programs) or to bill the school district of residence only. In at least one instance school districts outside of Milwaukee County had agreed to a tuition waiver arrangement contrary to statute. Most county clerks contacted by this staff agreed that the county should not be involved in the collection of tuitions, and that it should be a responsibility between school districts.

2. Membership. For students receiving Chapter 115 services through their local school district, they may be counted in that district for membership for general aid purposes. In most cases, if a child is sent out of district for Chapter 115 services, that child is lost for membership purposes. However, under s. 66.30 agreements, CESA regular contracts, or CESA "package" plans, each district counts its own students being served under such arrangements for membership purposes. These students may be counted even though they may be attending classes outside of the district of residence.

Children educated by county handicapped children's education boards are a special category. Children attending classes in CHCEB facilities are lost to any district for membership purposes. These children do qualify for the $88 flat aid payment. Children who attend CHCEB classes housed in district facilities, however, are treated differently. Residents of the local district even though they may be contained exclusively within the CHCEB program of service are counted under s. 121.05 by the local school district for membership. The nonresident students in these classes are not counted for membership by the local district but do receive the $88 flat aid payment. The effect of this procedure may be to cause more than 100% of some students' educational costs to be paid. All CHCEB students will have 70% of the approved costs of programs reimbursed by state special handicapped aids; the remaining costs of operation will be paid by county taxpayers. However, certain of the CHCEB youngsters educated in county classes in their local school district's facilities will be counted as members for general aid purposes. When all aid and tax payments are considered, more than 100% of the costs is paid for educating this special category of resident children in county classes in district facilities. For 1975-76 the average general aid payment in the state was $520 per pupil. Some 1,961 EEN students were counted for membership who were in CHCEB classes that year, representing approximately $1,019,720 in general aids. Although this oversimplifies the mechanics of the general aid formula because per pupil aid payments vary by district, the impact of this policy is demonstrated by the example. While these general aid payments may be justified where the student is mainstreamed into some regular classes, they do not appear justified where the child is educated exclusively by the county in district facilities.

In situations in which a child is sent out-of-district on a tuition basis, he is lost for general aid purposes in either the district of residence or in the receiving district. In Milwaukee County, however, the tuition waiver provision of Chapter 115 has generated considerable confusion. In school year 1975-76, Glendale Jt. #1, Franklin, and Hales Corner (Whitnall) entered into a tuition waiver agreement. Yet each district then proceeded to count nonresident students for membership. One district counted both its incoming and outgoing students as members, a second counted its outgoing students, while the third counted only incoming students. (Correctly, none of the students could be counted). The result was a general aids overpayment in these three districts of $50,175.49 (since returned to the Department of Public Instruction). This type of confusion in conjunction with the fact that all tuition waiver students have been lost for membership purposes has meant that waiver agreements in Milwaukee County are now seldom used. Designed to simplify the pupil transfer a billing process, it has been abandoned in favor of direct school district to school district billing as permitted in the county under statute.

Findings

1. Chapter 115 has resulted in a dramatic increase in the number of instructional units being offered to children with exceptional educational needs. Increases have been particularly notable in the disability categories of early childhood, emotionally disturbed (ED) and special learning disabilities (LD). The number of school districts offering Ch. 115 services has not increased substantially outside of these areas.

2. The number of s. 66.30 agreements and CESA contracts for Chapter 115 services has increased. Although the number of county handicapped children's education boards (CHCEB's) is declining, the number of CESA's offering program units has increased.

3. Although the estimated rates of incidence are the same, school districts have not responded equally in offering programs of service to emotionally disturbed and learning disabled children. Since the passage of Chapter 115, the number of learning disabled classes has increased significantly, while emotionally disturbed classes are added with some reluctance. In some cases, ED youngsters are being served in LD classes.

4. Some school districts appear to be overidentifying the number of learning disabled children in their student population.

5. A number of school districts offer Chapter 115 services through s. 66.30 cooperative agreements. In theory these agreements can be used to provide effectively and efficiently special education services that would otherwise be impossible if done by a single district. In practice, the existence of multiple fiscal agents and differing levels of participation by member school districts produces administrative problems which deserve

6. CHCEB's in counties where few school districts participate or where school districts participate selectively in program offerings, experience administrative difficulties:

a. tax levies to support CHCEB operations are often inappropriately spread across the areas of the county liable for assessment,

b. tuition payments become extraordinarily difficult to compute and to assess correctly,

7. Some CHCEB's exist in name only, transferring full program operations to a CESA but remaining as a statutory body in order to collect $88 flat aids and to tax county residents for the unaided program costs.

8. CESA's offer a variety of services to local school districts particularly in the areas of mental retardation. CESA's may provide services through regular contract or with a "package" plan. In either case, districts are to be billed for services in proportion to their use. Our review finds that local districts are not always billed for services by use but instead by their percentage of membership of the total from the districts served. Such practice causes disparities in the amounts which should be correctly billed.

9. The number of special education directors in local school districts, CHCEB's or CESA's has increased dramatically since the recodification of Ch. 115 in 1973.

10. Tuition waiver provisions of the statutes have been subverted by complex membership counting procedures in school districts within Milwaukee County. The result has been that most districts now do not resort to such waivers. What was originally a simplifying procedure has been abandoned in Milwaukee County in favor of direct district to district tuition billing.

11. Tuition and membership provision of the statutes are complicated and result in numerous reporting errors.

12. Membership reporting procedures for CHCEB's allow in some instances for more than 100% of the costs of a child's education to be paid.

CHAPTER V
ISSUES IN THE IMPLEMENTATION OF CHAPTER 115

The last chapter has focused on the general experiences of local school districts, s. 66.30 cooperative agreements, county handicapped children's education boards (CHCEB's), and cooperative educational service agencies (CESA's) in offering programs under Wisconsin's special education statute. This current chapter briefly reviews some of the specific difficulties which local school districts and intermediate educational agencies have encountered as they have sought to achieve the full service mandate required by Chapter 115. Basically there appear to be four categories of problems which have arisen at the local level: 1) the administrative problems relating to the rules and regulations associated with Chapter 115, 2) the due process problems, relating to parental and school district privileges and prerogatives, 3) noncompliance with Chapter 115 mandates, and 4) the "unanticipated" problems, relating to the special or unique consequences of the special education law for some (or all) school districts. The material present in the following pages has been gathered from on-site visits to a variety of local educational agencies throughout the state (see Chapter IV).

Administrative Problems

Chapter 115 Administrative Rules and Forms Requirements. With virtually no exception, school administrators, coordinators of special education, or senior psychological services staff viewed the administrative and forms management requirements of Chapter 115 to be nearly insuperable. Most felt that the requirements of program administration had become so arduous that the educational effectiveness of Chapter 115 was itself being compromised. It is recognized by the review staff that a program as sizeable and complex as those authorized by Chapter 115 must be monitored in some manner. We believe that the Department must require proper program accountability. Yet there is a fine line between adequate and appropriate administration and excessive reporting requirements. As a result of our inspections of local program activities, we believe that local administrators' claims regarding Chapter 115 regulations are not without some foundation.

The source of the problem seems to be tied to two considerations: rules implementing Chapter 115 and forms requirements. Most school administrators were apparently not prepared for the administrative rules promulgated by the Department of Public Instruction for the education of children with exceptional educational needs. School officials view these rules as too detailed and inflexible. While most administrators and special education staff recognize that standardized practices and procedures must be spelled out, few were apparently prepared for an extensive, specific body of rules. The first rules established procedures for the screening and placement of children, hearings procedures, qualifications of certain support staff, and program types and ranges.

Screening, placement, and hearing procedures were essential soon after Chapter 115 was passed because few districts had had extensive experience in these activities. Unfortunately, these rules were not promulgated for over two years after the passage of the law (the Department used informal guidelines during the interim). Thus, in some instances districts had to make changes in their informal practices once the rules were officially promulgated. Now, the Department is in the process of establishing new rules

setting forth operational definitions of the disability areas served under Chapter 115. Here as above, a number of districts have developed their own definitions which may be at variance with the proposed rules. This problem might have been avoided if the Department had early developed a complete set of rules, rather than preparing them in piecemeal fashion.

Administrators also appear to view administrative rules as ways in which "permissive" or "unregulated" aspects of Chapter 115 may be made mandatory by the Department. Two illustrative examples will suffice to make the point. First, the retention of a director of special education is at present permissive by statute. However, administrative rules require a director before any of a variety of supporting staff may be hired. Second, most school administrators did not believe that either the statute allowed the Department to regulate the class size in different disability areas. However, P.I. 11.21(1)(c) establishes that the Department annually shall set minimum/maximum ranges for each special education program type and level. Beginning in March, 1976, the Department has established such ranges. Conformance to these enrollment ranges must be insured before approval will be given to any local program.

Establishment of minimum and maximum class sizes has occasioned some controversy. For example, administrators in three districts visited found the speech and language disability maximum class size of 25 to be infeasible, maintaining instead that a class size of 30-35 would be appropriate (and less costly to operate). As a result of these and other complaints, this particular standard was relaxed.

The completion of forms and reports by school administrators, special education staff, and instruction personnel was cited universally as one of the most difficult aspects of compliance with Chapter 115. Several administrators noted a study prepared by three district administrators from CESA #9 detailing the 1975-76 school year reports required for the operation of an eight student trainable mentally retarded class. To operate an approved program a minimum of six forms (PI-HC-176, PI-HC-200, PI-HC-SG-202, PI-HC-SE-302, PI-HC-SE-212, PI-HC-SE-1; See Table VIII, Chapter III) would be required (in some cases these forms must be submitted first as a plan of service to be approved, and then again as a final report and claim.) In completing these six forms redundant information is required in some 23 instances. In some cases one-half dozen repetitions or more of the same item of information are required over the entire complement of forms. The state superintendent has been aware of these problems and accordingly has directed a review of the Department's reporting requirements. A goal of 10-15% reduction per year in data requirements has been set.

Requirements now in force call for five copies of each form to be submitted to the Department. The forms used by the Department for Chapter 115 programs are not of the carbonless, pressure-sensitive variety. Furthermore their format is such that each form must be typed separately (or photocopied) to generate the five copies. Some districts have limited copying facilities and, therefore, do in fact type separately each copy. During our plan of service and claims review activities we noted that separately prepared sets of a district's forms did not always correspond in terms of the data reported.

Clearly, the Department can consolidate its forms so that a more efficient reporting system will result. However, neither the Department's Division for Handicapped Children nor its Division for Financial Aids can

forego the collection of certain types of information without severely compromising its ability to monitor local programming or aids claims activities. Neither Division at present engages in extensive field audit activities although Division for Handicapped Children staff will soon begin a program of field visitations on a limited basis. Currently, supervisors in the Bureau for Exceptional Children visit districts generally only on request to assist in the establishment of a new program or in response to a crisis situation. The Division for Financial Aids audits categorical programs only periodically. Thus, if there is to be any kind of compliance or accountability at all, some form of ongoing data collection is indispensable. While this dilemma is generally perceived by school administrators and DPI officials alike, what has not been done is to determine the appropriate level of reporting to insure accountability while not at the same time compromising program effectiveness through unreasonable data requirements.

Evaluations. Closely related to the questions of administrative rules and reporting requirements is is the matter of EEN student screenings and evaluations (related to the individual educational programs (IEP's) under the new Education for All Handicapped Children Act of 1975 [P.L. 94-142]). Chapter 115 requires that each child with an expected exceptional need be screened to determine if such an exceptionality indeed exists. If it is determined that a child has an exceptional educational need, the statutes further require that annually a teacher's report be prepared assessing the child's progress. Section 115.80(5) stipulates that every three years a multidisciplinary team (M-Team) must reexamine each child previously identified as having an exceptional educational need. In light of the child's progress over the intervening three years, a new program or placement or even exiting from the special education program may be recommended. In addition to these state screening and evaluation requirements, P.L. 94-142 will apparently require, on an annual basis, the preparation of individual educational programs. These programs are documented statements on decisions reached about the objectives, content, implementation, and evaluation of each EEN child's educational program. The IEP must be updated and supplemented each year.

Most school officials agreed that effective screening was essential to the proper identification and provision of service to children under Chapter 115. What was apparent, however, was the significant investment of time required for any meaningful screening activity. Special education teachers and school psychologists in general devoted a significant portion of their schedule to screening activities--frequently to the detriment of providing appropriate instructional and support services to the already identified special education population.

A number of districts indicated that they had commenced a major child find and screening effort in the 1973-74 school year. Because of the requirement of a reevaluation of an EEN child by an M-team after three years, teachers and special education officials in several districts noted that a disproportionately large number of reevaluations would be required during the 1976-77 school year. In some districts, these reevaluations were seriously taxing the EEN staff. Some districts (generally smaller ones) had have minimized the impact of the three year reevaluation cycle by reassessing a number of students after only 1 1/2 or 2 years in the program.

Special education staffs in districts contacted during on-site visits indicated that they kept teachers' reports of each EEN child's yearly progress. These reports were observed to be quite variable in quality (from

rather cursory observations to documented, detailed indications of a child's progress); furthermore, they were all retained at the local level and not forwarded even in synopsis form to the Department where they could be used to make determinations of overall program effectiveness. Had these evaluation reports been submitted, they undoubtedly would have caused additional paperwork problems for both the local educational agencies and the Department. Furthermore, Division for Handicapped Children staff would not have been able to process the evaluations.

There was found to be considerable concern over the requirement that individual educational programs (IEP's) and yearly evaluations would be required under provisions of P.L. 94-142. Most special education personnel felt that there would not be sufficient time (or in some cases, expertise) to prepare these programs adequately. While many administrators and special education personnel saw a clear need for frequent evaluation and reevaluation in some disability categories, there was felt to be a less pressing need for such frequent review in other disability categories (for example, the profoundly retarded, the hearing and visually impaired).

Public vs. Private Placements. In some local districts, school administrators and special education personnel found the statutory and administrative rule prohibitions too restrictive in allowing placement of children with exceptional educational needs in private special education programs. In a number of instances special education staffs felt that appropriate educational placement in private facilities might be warranted because a) the least restrictive environment alternative required it, b) the quality of the private program recommended it, and c) no appropriate, nearby public program was available. However, at present, placement in private facilities is available only as a last resort--after all alternative placements in the state and out of state have been explored and/or exhausted. When such placements are made, the school district is entirely liable for all costs incurred.

A recent opinion by the state attorney general (O.A.G. 10-77) has focused on another aspect of the public-private issue. The attorney general held in his opinion that St. Coletta School of Jefferson could not properly receive public funds in view of s. 115.85(2)(d) of the statutes which provides that a school district, in order to

> provide a special education program which is appropriate to the child's needs, the school board may, upon approval of the state superintendent and if no equivalent public program is locally available, contract with a private special education service whose governing board, faculty, student body and teachings are not chosen or determined by any religious organization or for any sectarian purpose.

The attorney general found that the teachings of the school as well as the selection of instruction personnel were conducted or chosen for a sectarian purpose, thus funding was to be denied. He held, furthermore, that the statute, as presently written, is so restrictive that a contract between a school district and St. Coletta's to provide Chapter 115 services denied of any sectarian instruction would also be forbidden.

There is an additional concern relative to children with exceptional education needs who are institutional residents of private or parochical special purpose care centers. Under State ex rel. School District #1 of Waukesha vs. Thayer (1889), 74 Wis. 48, these children are considered

residents of the school district in which the facility is housed. Some school administrators have expressed concern that residents of such institutions may request Chapter 115 services from the school district, thereby placing a severe strain on that school system. To rectify this situation, the Legislature in Chapter 333, Laws of 1974 (the annual budget review bill) provided statutory language to remove residents of such institutions from the requirements of Chapter 115. This change was vetoed by the Governor, thus the problem remains unsolved.

Due Process Problems

Chapter 115 provides a number of important procedural safeguards for both the youngster with exceptional educational needs and his or her parents. As outlined in Chapter II of this report, most of these procedural safeguards involve the parent's rights to allow for screening and evaluation and their approval to the recommended EEN placement, if any. Certain other rights at hearing and on appeal are also specified. For the most part school officials and special education staff are highly supportive of these child and parental rights.

There are two areas of concern, however. First, some parents do not permit their child to be served in a special education program, even though the need may be compelling, and second, some parents refuse to permit their child to exit from a special education program even though the child may no longer require Chapter 115 services.

In the first instance, a multidisciplinary team may determine that special educational services are required for a child; however, the parents refuse to allow the child to be enrolled in these classes. Section 115.81 gives the parent an absolute veto with regard to a child's placement for services. In the event of a parental veto through a refusal to consent to services, school districts have no recourse save a declaration that the child's (or others') health and safety are endangered, in which case the child may be excluded from school. However, this remedy is extreme; in practice, the school has little recourse.

Refusals to consent to service are relatively uncommon, but they do occur. School districts may not appeal such parental refusals. School officials indicate that they occur in those cases in which the child has grown up in an overprotective home environment, and the parents are reluctant to see the child leave that situation for a potentially hostile or hazardous school environment. In some few other instances, the parents themselves may be contributing to the child's disability (for example, the emotionally disturbed child) and, therefore, do not clearly recognize the need for special services. In one district visited, an emotionally disturbed child had actually requested Chapter 115 services but the required parental consent had been withheld.

In the second instance, a child enrolled in a learning disability, emotionally disturbed, or speech and language disability program may make sufficient progress that no further Chapter 115 services are required. Through reevaluation, the multidisciplinary team may recommend termination of Chapter 115 services; however, the statutes require that parental approval be granted first. In some cases this consent is not given, and the child must remain in the program. This problem appears to be most troublesome in the speech and learning disability programs.

Noncompliance

The question of local noncompliance with Chapter 115 was not a primary focus of this review; however a few general comments are in order concerning the Milwaukee public school system. Section 115.895 of the statutes requires full compliance with the mandates of Wisconsin's special education law by July 1, 1976. At the present time all districts in the state are substantially in compliance with Chapter 115 except for the Milwaukee school district. The district asked for and received an extension until December 31, 1976, even though the statutes do not permit such an extension. In the early months of 1977, the district is still not in compliance.

Based upon interviews with Bureau for Exceptional Children supervisors, it is clear that Milwaukee has not been obliged to meet the same requirements to achieve compliance with Chapter 115 mandates that were required of other districts in the state. The reason for this policy is unclear, but its consequences are unmistakable. The district has not screened all of its potential EEN populations; there is presently a backlog of several thousand youngsters waiting to be evaluated. Until the beginning of 1977 there were in fact many hundreds of children who had been screened but were unable to be placed in district programs. The latter situation has shown some improvement in recent weeks, but the number of unscreened (and unserved) youths remains a cause for considerable concern.

Unanticipated Problems

The passage of Chapter 115 has resulted in a number of districts experiencing some special problems, many of which had been largely unexpected or unanticipated. These include: 1) services to school age parents, 2) districts with extensive program offerings becoming magnet districts, and 3) involvement of regular education teachers in mainstreaming activities.

School Age Parents. Although not a portion of the original draft legislation prepared by the special education subcommittee of the Legislative Council Education Committee, school age parents were added to Wisconsin's special education law by the full committee during its review of the draft legislation. Coverage was extended to school age mothers because it was felt that they would temporarily have exceptional educational needs which would be provided better through Chapter 115 services rather than through any other conveniently available mechanism.

Most school districts which had provided services to pregnant young women had traditionally done so through regular counseling and home instruction services. For all intents and purposes, school age parents continue to be provided services as they have been in the past except that the state currently reimburses the local district at 70% of the program's approved cost. Several school officials and special education personnel indicated to the review staff the M-team screening might be unnesessary for this disability. Where special centers for the young women existed, many were receiving valuable regular instruction and training in pre-and post natal care, yet these services for the most part were being provided prior to the inclusion of school age parents under Chapter 115. In districts with no special centers, an effort was made to keep the student in regular classes as long as possible, but in many cases parents did not consent to such recommendations, preferring instead to have the student removed from school receiving homebound instruction. The irony here is that Chapter 115 had intended to keep the

school age parent in school as long as possible, but because parents may refuse consent to such placement, the effect in many communities may be quite the opposite.

Magnet Districts. Urban school districts, because of the numbers of children with exceptional educational needs within their jurisdiction, offer a wide range of special education services. Districts such as Superior, Green Bay, Oshkosh, Racine, Madison and Milwaukee offer special education classes in virtually every disability area. What all of these districts have faced (as well as others throughout the state) has been an influx of out-of-district students. During the review of 1974-75 school year claims and reports covered by this study, Oshkosh alone received over 30 nonresident students with an additional 20 youngsters being placed in district in foster homes. Others were provided room and board for Chapter 115 services. Madison, in that year, received 95 nonresident youngsters and served 23 others in foster homes. Some districts, because of the extent and the attractiveness of their programs are becoming magnet districts. Some administrators felt that other districts were simply placing their children on these magnet districts. The result is certainly to put a strain on the services provided by the receiving districts and in some cases to allow sending districts to escape their responsibilities under Chapter 115. The overall problem has become so severe in Milwaukee (already facing compliance difficulties) that the district will not normally accept any out of district transfers into the city school system.

Mainstreaming. To the extent appropriate, children with exceptional educational needs are to be integrated into regular education classes. As previously indicated, placing a child in the least restrictive environment was a principal concern of the Legislature when Chapter 115 was recodified. Most school administrators and special education personnel contacted support the concept but expressed reservations about its impact on and acceptance by regular education staff members. The cause for this concern is due largely to the dual realization that significant numbers of youngsters are going to be mainstreamed and that many regular education teachers have had limited experience with handicapped youngsters.

The Division for Handicapped Children has recognized this potential problem and has been scheduling dozens of inservice workshops and conferences in all disability areas in an effort to reach as many regular education teachers as possible. While this represents an important commitment by the Department, most regular education teachers have still not yet been reached.

This chapter has briefly considered some of the principal concerns voiced to the review staff by school administrators and special education personnel. Some of these concerns are occasioned by larger problems with Chapter 115 and will be further dealt with by the recommendations in Chapter VIII. In the following chapter, the focus of attention turns from questions of program implementation to a consideration of program costs.

Findings

1. School officials and many special education staff find the Department's administrative rules to implement Chapter 115 to be too detailed an inflexible.

2. Paperwork requirements associated with Chapter 115 have become sufficiently burdensome as to risk compromising the educational effectiveness

of Chapter 115. While some revisions are certainly possible, program accountability for Chapter 115 programs under present conditions will be very difficult to achieve without retaining some reporting requirements.

3. The requirement of evaluations of EEN children's progress every three years is causing some hardship in 1976-77 to school districts who identified large numbers of such students in 1973-74, the first year of Chapter 115.

4. A child's progress report is maintained at the local level. Program effectiveness measures tend to be developed on an individual basis. At this time program evaluation has not been conducted on a statewide basis.

5. The preparation of individual education programs (IEP's) under P.L. 94-142 has caused concern at the local school district level where it is thought that they will will require a significant investment of time by instructional personnel.

6. School officials find the prohibitions against the occasional placement of EEN youngsters in appropriate private special educational programs to be too restrictive. Clarification of local school districts' responsibility toward local residential special treatment centers is required.

7. Parental consent provisions of Chapter 115 have occasionally resulted in:
a) the refusal of a parent to allow his or her child to be served by Chapter 115 programs, and
b) the inability of a school district to terminate a student's participation in Chapter 115 programs where progress has been sufficient to warrant such termination.

8. The Milwaukee school district has not yet complied with the mandates of Chapter 115.

9. Certain urban school districts with many Chapter 115 programs have become magnet districts, attracting large numbers of out-of-district EEN students and putting a strain on some of those local programs.

10. Mainstreaming requirements will necessitate considerable in-service work with regular education personnel, who for the most part, have had little experience with special education children.

CHAPTER VI

IMPACT OF P.L. 94-142 ON STATE SPECIAL EDUCATION PROGRAMS

The preceding chapter has examined specific district-related issues associated with the implementation of Chapter 115 in Wisconsin. This chapter explores the likely impact of the Education of All Handicapped Children Act of 1975 (P.L. 94-142) on the state's special education efforts. The new federal law, which contains authorization for substantial flow-through funding to local school districts, stands to have considerable effect on programming for children with exceptional educational needs in Wisconsin. Because federal funds will be distributed under an excess cost formula, rather than by percentage reimbursement, as Wisconsin now uses, Chapter VII will consider likely impact of P.L. 94-142 on Chapter 115 costs and will explore the appropriateness of funding special education programs using a mechanism other than the 70% reimbursement formula.

The Education of All Handicapped Children Act of 1975 (P.L. 94-142).

The enactment of P.L. 94-142 in November 1975 marked the beginning of a new era for the involvement of the federal government in the field of educating children with exceptional educational needs. The new law provides, in successively larger allocations over the period 1976 through 1982, significant federal funding to state and local educational agencies for the education of handicapped children. The key provisions of the law are set forth below.

Basic Provisions of P.L. 94-142. The Education of All Handicapped Children Act of 1975 is basically a civil rights law designed to insure that handicapped children are guaranteed certain basic rights and protections such as the right to free appropriate education, due process, least restrictive environment, and nondiscriminatory testing and evaluation. The act and subsequent administrative rules (at present published for comment but not yet promulgated), provide detailed guidelines spelling out how each state and local school district shall fulfill the guarantee of nondiscrimination. Importantly, the act provides fiscal support to achieve these guarantees.

Local school districts, to be in compliance with P.L. 94-142 are required to carry out a variety of activities:

1. Develop a plan of free and appropriate educational services and programs for children with exceptional educational needs;

2. Assure that "free" public educational services are being provided to handicapped children consistent with the following timelines: (a) all 3-18 year olds, inclusive, by September 1, 1978; and (b) all 3-21 year olds, inclusive, by September 1, 1980;

3. Develop an individual educational program (IEP) for each handicapped child identified and being served;

4. Review and renew the IEP of each child being served on a yearly basis;

5. Agree to insure that parent conferences be held on an annual basis

in order to help gauge the child's progress in the locally provided programming;

6. Provide educational services in accordance with the following priorities: (a) identify and include "unserved children" first, (b) improve programming for multi-handicapped children second, and (c) upgrade program offerings for other handicapped youngsters currently inappropriately served third; and

7. Use any funds derived from this act to supplement rather than supplant local or state efforts.

While P.L. 94-142 clearly states that the main thrust for the delivery of service to handicapped youngsters shall rest with local school districts, the act also requires that the state provide certain services and assurances. The law provides that the Division for Handicapped Children (DHC) in the Department of Public Instruction (DPI) shall have principal administrative responsibility for the act.

The DHC annually must develop and submit to the Committee of Education a state program plan setting forth the manner in which the guarantees provided by this act are being met locally and statewide. This provision will require that the state prepare and submit rather extensive annual plans. The full impact of this requirement remains as yet unclear; however, it is anticipated that local school districts will be under the obligation to submit fairly detailed information to the Department of Public Instruction. It is likely furthermore, that this requirement will jeopardize the Department's efforts at reducing the amount of paperwork associated with the provision of services to handicapped children. After 1979 there will be some relief; only substantive changes in procedures on plans of service must be reported annually thereafter. It is anticipated that the safeguards and assurances developed for Chapter 115 relative to confidentiality, due process, child identification, and testing will be appropriate for the federal requirements. The Division must also establish a mechanism to allow for federal flow through funds to reach the local school districts in a timely fashion. The Division is further expected to develop and monitor a system to assure full fiscal accountability.

Finally, to assist in the establishment of policies governing programs under this act, the Division must have an Advisory Council composed of parents, handicapped persons, experts in the field of exceptional educational needs, and school administrators. The Council on Special Education provided for by ss. 15.377 and 115.79 of the statutes has been designated to carry this function.

Funding. Public Law 94-142 establishes a state's basic entitlement to federal funds according to a statutory formula. A state's allocation will be determined by multiplying the number of handicapped children aged 3 to 21, inclusive, who are receiving special education services by the amounts set in the following schedule:

Fiscal Year 1978: 5% of the national average per pupil expenditure;
Fiscal Year 1979: 10% of the national average per pupil expenditure;
Fiscal Year 1980: 20% of the national average per pupil expenditure;
Fiscal Year 1981: 30% of the national average per pupil expenditure;
Fiscal Year 1982: (and thereafter) 40% of the national average per pupil expenditure.

The "national average per pupil expenditure" represents the aggregate current expenditure of all local school districts during the second fiscal year preceding the fiscal year for which the computations are being made, plus any additional direct state educational expenditures for the operation of the local school districts, divided by the aggregate number of children in average daily attendance. This expenditure figure has been set at $70 for fiscal 1978. Funds generated by this formula are to be allocated to state and local educational agencies within each state. Table I presents the estimated impact of this formula on Wisconsin. This table indicates the authorized funding levels through fiscal year 1982. If the Congress appropriates funds up to the authorization ceiling, Wisconsin may be expected to receive the amounts indicated.

TABLE I

WISCONSIN'S ESTIMATED P.L. 94-142 ENTITLEMENTS

Fiscal Year	State Education Agency Share	Local Education Agency Share	Authorized Fund	Actual or Estimated Wisconsin Share*
1976	100%	---	$100,000,000	$2,181,600
1977	100	---	200,000,000	4,348,300
1978	50	50%	387,500,000	4,348,300 (est.)
1979	25	75	775,000,000	8,250,000 (est.)
1980	25	75	1,550,000,000	17,655,000 (est.)
1981	25	75	2,325,000,000	28,325,000 (est.)
1982	25	75	3,100,000,000	40,370,080 (est.)

*Estimated Wisconsin share figures have been computed using a constant, unduplicated EEN headcount of 55,000 and a national average expenditure figure of $1,400, increased by 7% per year to reflect inflationary adjustments. The fiscal 1978 entitlement is actually computed at $3,850,000, but a "hold harmless" clause in P.L. 94-142 guarantees a state its basic entitlement no lower than that received in fiscal 1977.

Funds received by the state to date have been used to fund direct service activities for handicapped children and have been allocated on a competitive basis.

Determination of Wisconsin's Entitlement. From the funds appropriated under P.L. 94-142, the Department of Public Instruction shall receive each year for the purpose of administration the greater of either $200,000 or 5% of the total amount of program funds received. To determine the state's allocation, on an annual basis the Division for Handicapped Children must gather data on the number of children aged three to twenty-one who are actually being served in free and appropriate education programs. Thus, for first year entitlements (fiscal year 1978) an unduplicated head count of children with exceptional educational needs shall be made October 1, 1976, and on February 1, 1977. The October 1 count has been taken and submitted. In the view of the Division for Handicapped Children, the count was low. The average of these counts will be used to determine the base figure for Wisconsin's allocation. This process will be repeated each subsequent year to establish a new base funding figure.

In determining the state entitlement, only those children 3 to 21 presently receiving free and appropriate special education services may be reported. A state must report its children being served by categories on types of exceptionality, but in no case may more than 12% of the total school aged population ages 5 to 17 be claimed. Furthermore, the statute stipulates that no more than 2% of the total children enrolled ages 5 to 17 may be claimed as receiving free and appropriate special educational services in the area of learning disabilities. Finally, if the state is providing special educational services for children ages 3 to 5, inclusive, an incentive grant of $300 per child served is available, in addition to the entitlements described above. With the exception of the incentive grants for preschool children, all funds under P.L. 94-142 are to be matched on a program basis by the state.

It is important to underscore that future appropriations to Wisconsin at the levels indicated in Table I are by no means certain. Funds for the implementation of P.L. 94-142 have been authorized at the levels indicated. Whether the amounts authorized will actually be appropriated by Congress is of course another matter. In the event that appropriations match authorizations each year, then Wisconsin will receive approximately the amounts indicated.

Local School District Entitlements. In order for a local school district to receive flow through funding generated by the state's entitlement formula under P.L. 94-142, that district must have sufficient children enrooled in special educational services to generate at least $7,500 (based on the allocation in force at the time). District funding will be determined based on the number of EEN students in a district times the average per pupil allocation in the state for such children. For the first year of flow through fund (1977-78), based upon the $70 per child allocation, a Wisconsin school district must serve a minimum of 215 handicapped children. If a district may not qualify for P.L. 94-142 entitlements, funds may go to an "intermediate" district or to a combination of local districts. Thus, in order to receive funds, a number of Wisconsin districts must have services provided through a cooperative educational service agency (CESA), county handicapped children's education board (CHCEB), or programs offered cooperatively under s. 66.30 of the statutes.

Excess Cost. Flow through funds to local school districts may be used only to supplement (not supplant) state and local commitments to the education of children with exceptional educational needs. At present, P.L. 94-142 will permit the local school district to use federal funds towards meeting the excess costs of educating the handicapped child. The excess cost provision is intended to insure that state and local educational agencies commit themselves to provide the same base of support for the education of handicapped children as they do for all other children. The proposed rules for P.L. 94-142 specifically forbid the use of funds provided under the act to pay for all of the special education and related services given to a handicapped child. Only the excess costs may be aided. Thus, local school districts (or "intermediate" districts) will have to maintain such records that will allow them to determine the costs of regular education and the costs of special education and related services.

Issues Related to the Implementation of P.L. 94-142. Wisconsin is now preparing for the first substantial allocation of funds under P.L. 94-142. As it does so, there are a number of key issues which remain to be resolved. These include: (a) the compatibility of Chapter 115 with P.L. 94-142,; (b) the achievement of full service in Wisconsin; (c) the allocation and use of funds locally; (d) the preparation of individualized educational programs (IEP's); and (e) the question of nonparticipation in P.L. 94-142 programs.

1. Compatibility of Chapter 115 with P.L. 94-142. Wisconsin is faced with two pieces of comprehensive legislation, both requiring full service to handicapped children. The state is fortunate in that many of the principal provisions of P.L. 94-142 are similar to the requirements spelled out in Chapter 115. Both laws require full service to children in roughly the same disability areas; both require service to approximately the same age range of children; both require screening and periodic re-evaluation; both establish procedural safeguards for parents and handicapped youngsters. Nonetheless, there are some important divergences.

In general, where the laws themselves do not conflict, the statute (state or federal) having the most comprehensive provision will take precedence. In those areas where incongruities remain, changes in administrative rule or in the basic state statute it self will have to be made.

Chapter 115, for example, extends coverage to all handicapped children age 3 to 20, inclusive. P.L. 94-142 extends that coverage to 21 years olds; however, a provision of the law does state that if coverage at these extremes is in violation of state law, state statutes shall govern. Chapter 115 also includes school age parents as a disability category; P.L. 94-142 does not.

Public Law 94-142 will require extensive pupil counting at least twice a year, while reporting practices for Chapter 115 have been to reduce such requirements. Federal funding to local districts will be based upon these enrollment figures. State law, in contrast makes fund allocations on a percentage reimbursement basis tied to the number of classroom units offered (not pupil counts). The state now requires on file a narrative plan from each local educational agency detailing both the purpose and scope of the local programming. This is in addition to an annual plan of service and report which must be submitted. Public Law 94-142, in addition to the enrollment counts, carries a requirement that a local federally based plan of service also be prepared. The Department feels that much of the materials previously

submitted by local educational agencies to the state may be used to comply with these federal requirements.

2. Achievement of Full Service. Until the achievement of full service in Wisconsin, P.L. 94-142 sets priorities of service for the state. Funds must be used first to provide for "unserved" youngsters (those receiving no educational programming) with exceptional needs. For the most part, these youngsters will include the very young, the sheltered handicapped child, and those who have dropped out of the educational system. In Wisconsin, the system of referrals established by Chapter 115 and by other agencies is both effective and efficient in identifying pre-school youngsters with exceptional educational needs. The sheltered handicapped children appear not to be a significant problem. For the out-of-school unserved youth, however, much of the Department indicates that work remains to be done. As noted in Chapters III and V, Wisconsin has not reached all suspected handicapped youngsters. The Department maintains that there are a number of Wisconsin youth with exceptional educational needs who, for a variety of reasons, have left school and are at present either enrolled in vocational technical schools or are gainfully employed. This group of youth continues to have definite rights for programming (or reprogramming) under both Chapter 115 and P.L. 94-142. Until such time as these residual groups are being served, the state cannot allocate substantial amounts of federal funding to "second priority children" (i.e., those children, chiefly multiply handicapped, being underserved or inappropriately served).

It is important that the Department of Public Instruction through its Division for Handicapped Children determine the number of handicapped children being served and the number remaining (in whatever category) to be served. Until such time, as these tasks are completed, the state cannot indicate full service to its youngsters with exceptional educational needs, thereby freeing federal P.L. 94-142 funds. After four years of activity under the full service mandate of Chapter 115, it does not seem appropriate for the Department to spend several additional years and many millions of dollars before certifying full service.

There is a certain irony here that P.L. 94-142 funds will be used to upgrade services or to provide additional programming for the inappropriately served multiply handicapped child. These are precisely the children that Chapter 115 has been presumed to have assisted the most.

The state may move to provide services to these "second priority children" upon issuance of a statement of full service, or if it is engaged in a comprehensive child find operation, or if it provides assurances that services can be provided to all newly found children.

P.L. 94-142 funding, while reserved principally for unserved children, may not in fact reach many of these children in Wisconsin. Relatively large amounts of P.L. 94-142 funds are earmarked for districts with large populations of unserved youngsters. Yet with the passage of Chapter 115 with the full service mandate of July 1, 1976, there are not likely to be significant numbers of unserved within a local school district (for a district serving few children in relation to expected rates of incidence, there would be significant funding). Thus, Wisconsin districts, many of which have relatively sophisticated programs, may well have a difficult time reaching first priority youngsters on relatively little funding. Until the state can

issue a statement of full service, however, it cannot use the bulk of its P.L. 94-142 entitlement for upgrading programs of children already being served.

As indicated above, federal aids must be used to supplement the special education effort made by local and state funding sources. However, once the state is able to reach full service, these federal funds may be used to supplant the state's funding commitment. If the state were to achieve full service and if the federal 94-142 appropriations were made at the authorized levels, the federal infusion of funds would have a substantial impact on Wisconsin's special handicapped aids appropriations. The state would not be able to reduce its general fund commitment to special education programs; that level of expenditure by the state could not be decreased by federal funds once full service was reached. However, once full service is achieved, federal funds would be used to support any additional special education costs.

3. The Allocation and Use of Funds Locally. Public Law 94-142 requires that local school districts establish such accounting procedures necessary to compute the excess costs of educating children with exceptional education needs. The federal statute will require each local educational agency to maintain records relating to the costs of special and regular education and related services at both the elementary and second level. Chapter 115 aids are distributed on a percentage reimbursement basis tied to the number of classroom units offered locally. Thus districts will be required to maintain dual accounting procedures for special education programs. This inconsistency between the federal and state aid distribution formulas can be expected to cause significant administrative problems.

Furthermore, as described above, all districts in Wisconsin may not qualify for aids under the $7,500 minimum requirement to trigger federal flow through funding. This requirement will force districts to turn to intermediate educational agencies or arrangements (for example, CESA's, CHCEB's, or s. 66.30 agreements) in order to provide service. The effect of this policy is to cause smaller school districts in the state to work cooperatively or to contract for service from larger cooperative educational agencies. In any event, the local district will not be relieved of the burden of maintaining the accounts which will permit the computation of excess costs. For programs offered through intermediate educational agencies, the excess costs determined shall be computed using the average of the combined costs of regular and special education in the participating districts.

4. The Preparation of Individualized Educational Programs (IEP's). Public Law 94-142 will require that a written statement be developed for each child containing the full particulars on decisions reached about objectives, content, implementation, and evaluation of the child's educational program. This plan must be prepared in a meeting with a representative of the local school district administration, the teacher with principal responsibility for the child's program, the child's parents, and, where appropriate, the student receiving the special services. Furthermore, the statute requires that these individualized educational programs be established, or revised, as appropriate on or about the beginning of each school year.

The IEP is designed to provide continuing re-evaluation of the yearly progress of each child enrolled in special education programs. At present the state statute requires annual teacher's reports, but these do not appear to be nearly as extensive in nature as the P.L. 94-142 requirements. In programs of this nature, the child's level of education performance and his achievement

are necessary requirements in order to judge overall program effectiveness. However, the rather extensive requirements which appear to be mandated by P.L. 94-142 may be counterproductive, requiring significant investments of time which could better be served in instructional pursuits.

5. The Question of Nonparticipation in P.L. 94-142 Programs. Given many of the new requirements of P.L. 94-142, a school district may well question whether participation is feasible. It appears that under current federal law, if a district elected nonparticipation, such a decision would not relieve a district of assuring that services are being provided to its handicapped children. Under section 504 of the Rehabilitation Act of 1973, "no otherwise qualified handicapped individual in the United States... shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance". All districts in Wisconsin are, of course, in receipt of federal funding. Thus, it appears that a school district must provide appropriate programming arrangements for its handicapped students under this act, even though the district might decide not to participate in P.L. 94-142 programs. Furthermore, assurances on nondescrimination under s. 504 must be made to the federal government; thus the district will not escape federal reporting requirements as they relate to handicapped children. The effect of these two federal laws is to give little if any latitude to local districts which might be considering nonparticipation.

Findings

1. Wisconsin will soon be covered by two separate pieces of legislation. Chapter 115 and the Education of All Handicapped Children Act of 1975 (P.L. 94-142) mandating full service to children with exceptional educational needs. If the Congress appropriates the full authorized amounts for P.L. 94-142, the state could receive and estimated $40.4 million annually in federal aids by 1982.

2. For the most part, the two laws are compatible. However, P.L. 94-142 may well require some realignments in Chapter 115. The new federal law will require extensive reporting each year in order to determine the state's aid entitlement the thrust in the administrative of Chapter 115 in the last few years has been away from such extensive reporting. Furthermore, federal aids will be distributed in accordance with an excess cost formula. Chapter 115 funds are distributed under a percentage reimbursement scheme. Thus districts will have to maintain two accounting procedures, one for state funding, the other for federal funding.

CHAPTER VII

PROGRAM COSTS AND AID DISTRIBUTION

This chapter focuses on state costs associated with the delivery of instructional and ancillary support services to children with exceptional educational needs. As part of this consideration, this section of the paper will focus upon three areas: state aids committed by Wisconsin to offset a portion of the costs associated with Chapter 115, support provided by other states for educating children with handicapping conditions, and funding mechanisms employed across the country to finance programs for exceptional educational children.

Wisconsin State Aid for Handicapped Children

State funding of programs for children with exceptional educational needs in Wisconsin is accomplished under two formulas. First, local education agencies are reimbursed through the payment of categorical aids for a percentage of costs expended on personnel, books, equipment, transportation and other items approved by the state superintendent. With the exception of school psychologists and school social workers, this reimbursement is established at 70% of approved costs. For school psychologists and school social workers, the reimbursement rate is fixed at 33 1/3%, 50% or 70% depending upon the amount of time that such an individual spends with children with exceptional educational needs. These aids are provided under a separate appropriation within the budget of the Department of Public Instruction and are now paid on a sum certain basis from the state's general fund.

The second method of aid payment is made under the state's general aid formula. Those costs not reimbursed under the direct categorical methodology are included as aidable costs for the purpose of computing general state aids. Distribution under this formula is made on the basis of a school district's equalized valuation, membership and costs. The formula attempts to equalize the property tax base behind each pupil by providing state support inversely proportional to a district's actual property valuation. Thus, a district with a relatively small tax base per pupil will receive a greater portion of revenues through state aid payments than will a district with a substantial tax base per pupil.

In summary, the state's fiscal commitment to programs for handicapped children is made both under the 70% categorical reimbursement and the general aid formula.

Table I, which follows, indicates the amount of categorical aid which the state has provided for programs for the handicapped for the period 1973-74 through 1975-76, the budgeted amount for 1976-77 and the amount requested by the Department of Public Instruction for the 1977-79 biennium. Examination of the total amounts on the table reflect an increase of $64.8 million or 219.9% from 1973-74 to 1978-79. In comparison, total appropriations from the state's general fund for this same six year period increased by 54.4%. Thus, the categorical amounts provided for programs for handicapped children have experienced a percentage growth rate four times that of the state's general fund treasury. A review of the individual disability areas listed in Table I points to the fact that in every category, the percentage of growth far outdistanced the 54.4% statewide general fund increase.

TABLE I

STATE CATEGORICAL AIDS FOR EDUCATIONAL PROGRAMS FOR HANDICAPPED CHILDREN

1973-74 through 1978-79

	Actual 1973-74	Actual 1974-75	Actual 1975-76	Actual 1976-77	Requested[a] 1977-78	Requested[a] 1978-79	Increase 1978-79 over 1973-74 Amount	Increase 1978-79 over 1973-74 Percentage
Mentally retarded	$14,660,000	$17,272,000	$20,264,500	$22,605,300	$24,191,900	$26,371,100	$11,711,100	79.9%
Deaf	1,357,000	1,647,500	1,962,200	2,195,200	2,481,500	2,816,200	1,459,200	107.5
Blind	237,600	300,900	398,000	602,600	676,300	731,200	493,600	207.7
Speech	4,082,100	5,155,800	6,335,900	7,841,300	8,922,100	10,089,300	6,007,200	147.2
Orthopedic	1,537,000	1,902,200	2,310,400	2 '22,400	3,341,700	4,246,300	2,709,300	176.3
Emotionally disturbed	1,387,900	1,921,700	3,138,400	4,915,000	6,633,900	9,596,500	8,208,600	591.4
Special learning disabilities	1,574,900	2,927,200	5,888,700	11,096,900	13,772,500	18,036,300	16,461,400	1,045.2
Homebound instruction	277,900	594,500	457,100	683,100	880,700	979,100	701,200	252.3
Psychologists	2,246,700	3,027,300	4,285,200	5,364,300	6,773,200	8,174,300	5,927,600	263.8
Social workers	1,380,900	1,510,100	1,925,900	2,444,500	2,861,700	3,329,100	1,948,200	141.1
Coordinators	748,200	1,052,300	1,514,000	2,023,600	2,687,200	3,196,400	2,448,200	327.2
Early childhood	-0-	-0-	180,800	2,200,800	2,543,500	4,157,400	4,157,400	N.A.
School age mother's centers	-0-	-0-	172,600	592,500	290,600	411,200	411,200	N.A.
Unalloted increase[b]	-0-	-0-	0	2,000,000	1,200,000	0	0	N.A.
Nonresident transportation	-0-	-0-	-0-	-0-	2,075,400	2,202,400	2,202,400	N.A.
TOTAL	$29,490,200	$37,311,500	$48,833,700	$66,987,500	$79,332,200	$94,336,900	$64,846,700	219.9%

[a]Indicates the Department of Public Instruction's request to the Governor for the 1977-79 biennial budget.

[b]Provided for 1976-77 when appropriation was changed from a sum sufficient to an annual basis. Requested for 1977-78 to provide aid for unidentified program units expected to be established in the second half of the 1976-77 school year.

Table II demonstrates the state categorical aid increase for the six year period 1973-74 through 1978-79 and reflects the absolute dollar and percentage increase for each year over that of the prior year.

TABLE II

TOTAL STATE CATEGORICAL AID PAYMENTS FOR HANDICAPPED CHILDREN, 1973-74 THROUGH 1978-79

Year	Aid	Increase Over Prior Year	
		Amount	Percent
1973-74	$29,490,200	---	---
1974-75	37,311,500	$7,821,300	26.5%
1975-76	48,833,700	11,522,200	30.9
1976-77*	66,987,500	18,153,800	37.2
1977-78**	79,332,200	12,344,700	18.4
1978-79**	94,336,900	15,004,700	18.9

*Budgeted amount

**Indicates the Department of Public Instruction request for the 1977-79 biennial budget

Since the enactment of Chapter 90, Laws of 1973 (the biennial budget act), the Legislature has maintained a level of state support for elementary and secondary education at approximately 40% of school expenditures. This percentage is comprised of both categorical and general aids. For example, in 1976-77, school costs were estimated at $1.55 billion. Forty percent of this amount, or $618 million, was appropriated by the Legislature to local educational agencies. Of the $618 million, $100 million was budgeted for the various categorical aid payments while the remaining $518 million was set aside for general aid distribution. Under this fixed percentage methodology, any increase in categorical aid payments reduces the amount available for general aid distribution and conversely, any reduction in categorical payments will increase general aid amounts.

Table III indicates the amount and percentage of total school aid payments under the categories "general aids," "handicapped aids" and "other categorical aids" for the period 1973-74 through 1978-79. The figures for 1977-79 are those contained within the Governor's biennial budget proposal, Senate Bill 77. It is interesting to note that the percentage of state support distributed as general aid has been reduced each year from a high of 88.4% in 1973-74 to a recommended 81.5% for 1978-79. The support for "other categorical aids" has consistently remained at or near the 5.4% mark for each year. The amount for "handicapped aids", on the other hand, has increased from 6.2% of the aid total in 1973-74 to a projected 13.1% for 1978-79.

What the table makes obvious is that over the six year period, the percentage of increased support for handicapped programs has resulted in a direct percentage decrease in aids distributed under the equalization formula.

Ironically, the Governor, and to some extent the Legislature, have taken steps to eliminate certain categorical payments and distribute a larger portion of aid through the general aid formula. Because of the substantial increase in payments for Chapter 115 programs, however, the reverse has occurred. In every year since the school finance reform of 1973, a smaller percentage of total aid has been distributed under the general aid mechanism

TABLE III

AMOUNT AND PERCENTAGE OF TOTAL STATE SCHOOL AIDS FOR THE PERIOD 1973-74 THROUGH 1978-79 DISTRIBUTED AS GENERAL AID, HANDICAPPED AID AND OTHER CATEGORICAL AID[a]

State Aids	Actual 1973-74 Amount	Percent	Actual 1974-75 Amount	Percent	Actual 1975-76 Amount	Percent
General aids	$418,047,800	88.4%	$448,487,500	87.4%	$484,475,600	86.3%
Handicapped aids	29,490,200	6.2	37,311,500	7.3	48,833,700	8.7
Other categorical aids	25,581,300	5.4	27,251,400	5.3	27,946,000	5.0
TOTAL STATE AIDS	$473,119,300	100.0%	$513,050,400	100.0%	$561,255,300	100.0%

State Aids	Budgeted 1976-77 Amount	Percent	Recommended 1977-78[b] Amount	Percent	Recommended 1978-79[b] Amount	Percent
General aids	$518,720,800	83.9%	$547,037,300	82.7%	$594,220,800	81.5%
Handicapped aids	66,987,500	10.9	79,235,800	12.0	95,725,700	13.1
Other categorical aids	32,245,900	5.2	35,489,900	5.3	39,499,800	5.4
TOTAL STATE AIDS	$617,954,200	100.0%	$661,763,000	100.0%	$729,446,300	100.0%

[a]"Other categorical aids" includes such items as aids for transportation, drivers education, common school fund, tuition payments, school lunch, racial balance transfer aids, CESA support, special educational needs programs and bilingual education.

[b]Amounts included in Governor's 1977-79 biennial budget recommendation, SB 77.

while a larger percentage of the total has been provided on a categorical basis.

In reviewing Wisconsin's support of programs for handicapped children, the most significant growth appears to rest in two areas. First, as indicated in Chapter IV, programs for learning disabled and emotionally disturbed children have expanded dramatically since the recodification of Chapter 115 in 1973. These programs, coupled with those for preschool youngsters, represent areas where limited service was available prior to enactment of Wisconsin's law. The second area of rapid growth is with ancillary support services. These services are provided primarily by school psychologists, social workers and coordinators/supervisors of special education.

Chapter 115 provides 70% reimbursement for salaries of coordinators and supervisors of special education. Senior level psychologists and social workers receive similar support on a sliding reimbursement scale based upon the amount of time spent with children having exceptional educational needs. All senior level psychologists and social workers are reimbursed one-third of their salary regardless of the amount of time spent with EEN children. For those who devote full-time to special education activities, the state will reimburse 70% of salary. For those devoting more than 50% of their time but less than full time, the state reimburses at 50% of salary and fringes.

Under Chapter 115, there have been important increases in the number of coordinators/supervisors, psychologists and social workers employed by local and intermediate educational agencies and in the aids to support their salaries. These increases are clearly observable in the data presented in Table IV.

As shown by the table, the number of support personnel increased by 536 or 89.9% over the six-year period while the aid reimbursement paid to these personnel increased by 235.9%. Thus, aids for these individuals outdistanced the increased number of personnel by almost three fold. There appears to be three possible reasons for this occurrence. First, the percentage of reimbursement formula for 1973-74 aids for psychologists and social workers was set at 50% rather than the sliding scale. This, however, would have little impact as most psychologists and social workers in later years averaged in the neighborhood of 50% reimbursement.

The second factor could be that more psychologists and social workers have recently been reimbursed at the 70% level under the sliding scale. As indicated in Chapter III, the Department is paying the maximum 70% reimbursement rate for psychologists and social workers who spend 90% or more of their time with EEN children. The statutes state that to receive the 70% reimbursement rate a psychologist or social worker must "spend all of his time as a part of a multidisciplinary team under s. 115.80(3) or working directly with or on behalf of a child who has been placed in a special education program..." (emphasis added). Our review of 1975-76 aids paid for salaries incurred in 1974-75 indicates that 98 psychologists and 17 social workers were in the "90% of time" departmental policy definition and were reimbursed at the maximum 70% rate. The statutory rate for such individuals is 50%. The net amount of overpayment because of this policy totalled $350,660 for that year. In addition to these determinations, the review staff noted 15 psychologists and two social worker claim forms that, after proration of aids due to salary support from other sources, appear to have been reimbursed at a higher rate than appropriate. This overpayment amounted to $45,609 in 1975-76. Table V shows the distribution of school psychologists and social workers in terms of the amount of time which they spent with exceptional education children.

TABLE IV

NUMBER OF SUPPORT PERSONNEL AND STATE CATEGORIAL AIDS
1973-74 THROUGH 1978-79

	Number Employed						Increase 1977-78 Over 1972-73	
	1972-73	1973-74	1974-75	1975-76	1976-77*	1977-78*	Number	%
Psychologists	330	390	460	535	585	650	320	97.0%
Social Workers	205	226	247	277	287	307	102	49.8
Coordinators/Supervisors	61	74	101	135	155	175	114	186.9
TOTAL	596	690	808	947	1,027	1,132	536	89.0%

State Categorical Aids

	1973-74	1974-75	1975-76	1976-77	1977-78**	1978-79**	Increase 1978-79 Over 1973-74 Amount	%
Psychologists	$2,246,700	$3,027,300	$4,285,200	$5,364,300	$6,773,200	$8,174,300	$5,927,600	263.8%
Social Workers	1,380,900	1,510,100	1,925,900	2,444,500	2,861,700	3,329,100	1,948,200	141.1
Coordinator/Supervisors	748,200	1,052,300	1,514,000	2,023,600	2,687,200	3,196,400	2,448,200	327.2
TOTAL	$4,375,800	$5,589,700	$7,725,100	$9,832,400	$12,322,100	$14,699,800	$10,324,000	235.9%

*Estimated.
**Indicates the Department of Public Instruction's request for the 1977-79 biennial budget.

111

TABLE V

SCHOOL PSYCHOLOGISTS AND SOCIAL WORKERS
PERCENTAGE OF TIME WITH EEN CHILDREN
IN 1974-75, AIDS PAID IN 1975-76

% of Time Spent With EEN Children	% of salary Reimbursed	Psychologists Number	Psychologists %	Social Workers Number	Social Workers %
0%	33 1/3%	6	1.3%	10	4.0%
0%-33 1/3%	33 1/3%	53	11.5%	61	24.7%
33 1/3-50%	33 1/3%	29	6.3%	19	7.7%
50%-90%	50%	178	38.7%	99	40.1%
90%-99%	70%[a]	98	21.3%	17	6.9%
100%	70%	75	16.3%	29	11.7%
Not Ascertained	---	21	4.6%	12	4.9%
TOTAL		460	100.0%	247	100.0%

[a] 70% reimbursement under departmental policy; 50% under s. 115.88(1)(b) of the statutes.

A third factor attributable to the substantial increase in aid payments for support personnel is undoubtedly due to significant salary increases at the local level. This is particularly true of coordinators/supervisors of special education. Most urban school districts, CESA agencies and county handicapped boards now employ such personnel. Table VI presents current year average salaries and salary ranges for directors, assistant directors and supervisors of special education. While salary averages are relatively consistent between types of educational agency, the overall range in salaries is considerable, from a low of $16,920 to a high of $47,094 for directors and from a low of $14,839 to a high of $38,708 for assistant directors and supervisors.

TABLE VI

COMPARISON OF SPECIAL EDUCATION LEADERSHIP SALARIES
IN 1976-77

		Average Salary
School Districts		
Directors	(35)	$33,198
Assistant Directors/Supervisors	(39)	25,640
Range for Directors	$16,920 to $47,094	
Range for Assistant's/Supervisors	17,700 to 38,708	
CHCEBs		
Directors	(12)	$27,600
Assistant Directors/Supervisors	(19)	21,764
Range for Directors	$21,995 to $31,856	
Range for Assistant's/Supervisors	14,839 to 26,797	
CESAs		
Directors	(18)	$23,763
Assistant Directors/Supervisors	(25)	21,596
Range for Directors	$19,848 to $26,798	
Range for Assistant's/Supervisors	17,273 to 26,079	

Because the state reimburses 70% of these salary amounts on a categorical basis and shares in the remaining 30% through the general aid formula, the reason for the increased state aid in this category is apparent.

Support for Handicapped Programs by Other States

In the field of special education, Wisconsin has always been among the leaders. As pointed out in Chapter II, Wisconsin had established a mechanism which provided for a variety of programs for the handicapped prior to the 1970's. In 1973, it greatly expanded this commitment by enacting legislation designed to insure free, appropriate educational opportunities to all children with special educational needs. Since Wisconsin's efforts in 1973, twenty-six states have enacted or substantially rewritten their special education statutes.

While a variety of funding mechanisms has been resorted to in the fifty states, all states share one feature in common--sharply rising costs associated with their special education programs. Table VII presents the total revenue commitment from state sources for each of the fifty states. Data are presented for fiscal year 1972, which in most states was just before substantial funding allocations or reallocations were begun for special education. In addition, data are presented for the two most recent fiscal years for which complete figures are available (fiscal years 1975 and 1976).

Over the period fiscal year 1972 through fiscal year 1975, Wisconsin's expenditures rose 67.5% from $22,282,200 to $37,311,500. While this increase is less than the national average for that period, it is important to note that the state's funding effect in special education was considerable. Wisconsin already had a substantial commitment in the field while a great many other states did not. Evidence of this is that in 1972 Wisconsin had a higher per capita expenditure for youngsters in special education (based on children served and state financial commitment) than did any other state in the upper midwest region (Illinois, Iowa, Minnesota, Michigan, Ohio, North Dakota, South Dakota or Indiana). In the more recent years reflected, Wisconsin has increased its funding of special education at a rate higher than the national average.

One other factor should be noted, Table VII lists only categorical support payments. In 1976, for example, in addition to the $48.8 million listed for Wisconsin, another some $8.5 million was provided through the general aid distribution formula for these programs.

TABLE VII
SPECIAL EDUCATION CATEGORICAL REVENUE FROM STATE SOURCES
FOR THE EDUCATION OF SCHOOL AGED HANDICAPPED CHILDREN
IN LOCAL EDUCATION AGENCIES,
FY 1972 TO FY 1976

	Special Education Revenue From State Sources				
	FY 1972	FY 1975	FY 1976	% Increase FY 1972-1975	% Increase FY 1975-1976
U.S. Total	901,697,100	2,[illegible]9,597,500	2,477,955,000	126.0	21.6%
Alabama	9,843,700	28,350,000	34,630,000	188.0	22.2
Alaska	4,094,500	9,390,400	12,137,000	129.3	29.3
Arizona	3,209,200	16,635,500	20,500,000	418.4	23.2
Arkansas	485,000	6,743,200	8,959,000	1290.3	32.9
California	154,009,600	207,304,000	230,658,900	34.6	11.3
Colorado	6,750,000	22,665,000	24,600,000	235.8	8.5
Connecticut	15,705,700	51,119,000	60,280,000	225.5	17.9
Delaware	8,800,000	16,900,000	19,900,000	92.0	17.8
Florida	42,842,400	113,514,600	137,000,000	165.0	20.7
Georgia	18,178,000	43,138,600	62,064,000	137.3	43.9
Hawaii	6,636,700	8,534,400	9,227,000	28.6	8.1
Idaho	1,900,500	9,311,000	11,623,000	389.9	24.8
Illinois	59,575,000	115,066,000	135,950,000	93.0	18.2
Indiana	3,756,900	16,500,000	22,010,000	339.0	33.4
Iowa	3,700,000	10,765,000	38,650,100	190.[illegible]	259.0
Kansas	3,841,000	9,476,000	12,108,000	146.7	27.8
Kentucky	11,665,600	20,427,000	32,436,000	75.1	58.8
Louisana	1,675,300	31,450,300	44,474,500	1777.3	41.4
Maine	1,352,600	4,350,000	5,500,000	221.6	26.4
Maryland	27,066,000	40,977,000	53,653,000	51.4	34.9
Massachusetts	18,120,300	93,000,000	132,900,000	413.2	42.9
Michigan	55,000,000	90,050,000	123,800,000	63.7	37.6
Minnesota	18,633,000	28,500,000	38,500,000	53.0	35.1
Mississippi	240,000	8,199,100	11,108,700	3316.3	35.5
Missouri	14,005,200	28,229,400	32,304,000	101.6	14.4
Montana	5,676,300	13,457,300	19,200,500	137.1	42.7
Nebraska	3,472,000	10,326,400	12,336,800	197.4	19.5
Nevada	3,566,000	6,293,000	8,096,000	76.5	28.7
New Hampshire	536,100	1,304,900	1,570,000	288.3	20.3
New Jersey	32,655,900	61,540,800	67,710,000	88.5	10.0
New Mexico	4,500,000	12,661,000	15,442,000	181.5	22.0

	FY 1972	FY 1975	FY 1976	% Increase FY 1972-1975	% Increase FY 1975-1976
New York	-0-	196,559,600	227,241,700	---	15.6
North Carolina	22,555,900	40,821,200	47,000,000	81.0	15.1
North Dakota	670,800	1,591,700	3,500,000	137.3	119.9
Ohio	66,245,800	103,046,600	121,438,600	55.6	17.8
Oklahoma	1,250,000	7,624,600	9,365,000	510.0	22.8
Oregon	3,962,500	5,273,200	6,266,000	33.1	18.8
Pennsylvania	81,403,000	168,000,000	180,000,000	106.4	7.1
Rhode Island	13,500,000	16,500,000	17,500,000	22.2	6.1
South Carolina	10,073,500	19,029,500	31,845,600	88.9	67.3
South Dakota	350,000	350,000	850,000	-0-	142.9
Tennessee	13,459,000	33,513,900	38,498,000	149.0	14.9
Texas	74,186,400	190,805,000	209,885,000	157.2	10.0
Utah	10,057,300	13,573,300	19,215,000	35.0	41.6
Vermont	2,069,600	3,173,000	3,549,000	53.3	11.7
Virginia	11,107,000	21,328,700	25,290,400	92.0	21.7
Washington	24,383,600	33,283,300	38,400,000	36.5	15.4
West Virginia	2,004,200	4,633,500	4,168,100	31.2	-10.0
Wisconsin	22,282,200	37,311,500	48,833,700	67.5	30.9
Wyoming	743,800	5,000,000	5,080,400	572.2	1.6

Alternative Funding Arrangements

The previous sections of this Chapter have reviewed the financial commitments made by Wisconsin and other states in their support of educational programs for children with handicapping conditions. Because Wisconsin's 70% reimbursement methodology is inconsistent with the excess cost formula required under P.L. 94-142 and because questions of formula modifications have been raised in the Legislature, it is appropriate to review alternative funding possibilities for the state.

Presently in the United States there are six distinct funding formulas in use for providing financial assistance to local school districts. These funding categories are: (a) unit support, (b) straight sum reimbursement, (c) personnel reimbursement, (d) percentage reimbursement, (e) weighted formula and (f) excess cost formula. In addition to these six, Hawaii, which finances all public elementary and secondary education through a statewide property tax, provides for total fiscal support. Following is a description of each of the formula mechanisms and a brief review of the advantages or disadvantages of each.

1. Unit Support. The unit support formula provides school districts with a fixed sum for each designated unit of classroom instruction, administration and transportation. Currently, there are 14 states which employ a unit support formula.

Louisiana provides an example of this type of support. The state prescribes a pupil/teacher ratio for the various categories of handicapped children. The total number of children in each category is then divided by the prescribed class size to arrive at the number of units in each category. Reimbursement is then made to the local school district at a set amount of aid per unit. In the Louisiana example, units are allowed according to the following minimum-maximum pupils per teacher or therapist:

1. Slow learners--one teacher per 12-18 pupils;
2. Educable mentally retarded--one teacher per 10-15 pupils;
3. Trainable mentally retarded--one teacher per 8-12 pupils;
4. Deaf or hard of hearing--one teacher per 8-10 pupils;
5. Blind or partially sighted--one teacher per 8-10 pupils;
6. Speech impaired--one therapist per 60-80 pupils;
7. Cerebral palsied--one teacher per 8-10 pupils; and
8. Emotionally disturbed--one teacher per 8-10 pupils.

A state, such as Louisiana, which uses this formula has the number and types of units clearly defined and mandated. There is, in effect, a very explicit statement of the state's plan for its appropriation. The system requires sophisticated cost determinations at each budgeting period thereby increasing overall program accountability. This is because the unit formula places considerable fiscal authority in the hands of state education agencies and the Legislature, since units must be justified and then appropriated in order to have any level of state financial assistance.

This method, however, would appear to have several disadvantages which might not make such a system conducive to Wisconsin. First, from a programmatic standpoint, the formula provides limited flexibility. Unit sizes are usually set by statute and may not easily be changed to reflect evolving conditions in a state's special education program. The configuration of units established by the Legislature may not, for example, prove to be flexible for the continuum of services needed to provide the most appropriate educational

services to handicapped youngsters. Thus, because innovation is relatively difficult with the unit support system, it is not necessarily efficient or cost effective. Second, the formula allocates fixed sums to participating school districts without any regard to the district's ability to support local programs of service. Third, the pure unit system, as described in the Louisiana example, sets some premium on finding and identifying special education students so that a district may qualify for additional aids through the addition of more units.

2. Straight Sum Reimbursement. The straight sum reimbursement formula provides to school districts a fixed amount of money per pupil, typically varying according to category of disability.

The formula is perhaps the least flexible funding option. No state uses it exclusively, a limited number use it for one or two programs. Arizona used the formula exclusively until 1973. Under the formula, Arizona provided a flat $380 per unit of average daily attendance of educable mentally retarded, emotionally disturbed, or physically handicapped children; $590 per multiply handicapped child; and $526 per homebound child.

Most states have abondoned or refrained from using the formula because of its numerous disadvantages: the formula is tied to categorical labels, pupil/teacher ratios are not fixed so that districts may increase class size to receive more funding at little additional local cost, and rather sophisticated use determinations are required to revise allocation to different disability categories.

3. Personnel Reimbursement. The personnel formula provides aids to local districts to offset costs incurred in hiring special education staff.

Relatively few states use this procedure. Illinois, however, uses it exclusively. In that state, funds are authorized to cover:

1. One-half the teacher's salary for hospital/homebound instruction, not to exceed $6,250 per teacher or $1,000 per child per year;

2. $6,250 for each full-time special education director, psychologist, qualified special education teacher, or other professional worker;

3. One-half the salary, not to exceed $400 per year, of readers to the blind; and

4. One-half the salary or $2,500 (whichever is less) for certified aides.

A concern of this formula is that state aids are tied entirely to one resource--personnel. With only one resource input supported, there may be a disincentive to implement programs and services requiring more equipment and materials. Similarly, the formula may be changed to reflect changing salary demands, but not changes in other resources or spending requirements. Under the personnel factor, accountability is high. The state has defined explicitly how it plans to use special education funding, and the aids are dedicated exclusively to that purpose.

4. Percentage Reimbursement. The percentage reimbursement formula provides school districts with aids reimbursed at a percentage of the costs incurred in providing education to handicapped children.

Wisconsin, of course, uses this formula. Chapter 115 essentially proyides that 70% of the approved costs of teachers' salaries, pupil transportation, special books and equipment for the education of handicapped children be reimbursed by the state to local education agencies.

The percentages reimbursed vary significantly from state to state. Since the percentage reimbursement formula may be an open-ended one (that is, no ceiling on state expenditures), it can be an expensive system. Some states have moved to limit the amounts which can be reimbursed, thus requiring for a proration to funds if the Legislature does not appropriate sufficient funds to meet approved requests for reimbursement.

The percentage of reimbursement rate varies considerably from one state to another. Of the five states which still provide aid under this method, Maine and Montana reimburse at a 100% rate, Wisconsin at 70%, Oregon at 30% and South Dakota at 25%. Also, the items upon which reimbursements are made can vary.

A major drawback to this formula is that there is no apparent rationale for the establishment of the percentage level of reimbursement. As indicated in Chapter II, Wisconsin's 70% rate was enacted in 1965 and has remained unaltered since. Additionally, the categorical reimbursement methodology does not recognize the difference in program costs for the various disability areas. That is, while 70% (or any other fixed percentage) may be appropriate for one disability area, it may be inappropriate for another.

5. Weighted Formula. Since the school finance reforms of the early 1970's and the enactment of legislation guaranteeing educational opportunities for handicapped children, a number of states have moved from flat aid and percentage reimbursement formulas to those which "weight" students to reflect program cost differences and to those which recognize excess costs for certain high cost offerings. Currently, 11 states have implemented weighted formulas while 15 others have developed an "excess cost" formula.

The philosophy behind a weighted formula is one which recognizes that certain programs are more expensive to conduct than others, and accordingly, state support for such programs should be provided at a higher level. Florida was one of the first states to institute a weighted formula and provides a good example of this reimbursement scheme.

For the current school year, Florida provides a nonhandicapped student in grades 4 through 10 with a weight of 1.0 and a state aid payment of $745. Students in other grades or categories are weighted by factors larger than 1.0, reflecting the higher costs associated with educating those youngsters. The computation of the reimbursement is relatively straightforward. In Florida, the weighted factors are as follows:

Disability	Cost Factor (Weight) Base: $745
Hospitalized/homebound	15.0
Speech and hearing therapy (part-time)	10.0
Visually handicapped (part-time)	10.0
Emotionally disturbed (part-time)	7.5
Learning disability (part-time)	7.5
Physical therapy (part-time)	6.0
Deaf	4.0
Emotionally disturbed	3.7
Physically handicapped	3.5
Visually handicapped	3.5
Trainable mentally retarded	3.0
Educable mentally retarded	2.3
Learning disability	2.3
Socially maladjusted	2.3

Another type of weighted formula is one which increases the membership of a school district for general aid purposes according to the number of children enrolled in certain high cost programs. Whereas Florida provides a "flat aid" amount ($745) at the base weight of 1.0 and multiplies each "weighted pupil" by that $745, the other procedure incorporates the weights into the state's equalization aid distribution. An example of this is the aid incentive provision implemented in Wisconsin's racial balance legislation (Chapter 220, Laws of 1975). In this legislation, children who participate in an intradistrict transfer program in order to improve racial balance are counted as 1.2 for the purpose of determining the district's general state aid.

In those states which use this methodology for funding programs for handicapped children, a determination is made at the legislative level to apply a weight to each of the disability areas. Categorical aids for handicapped children are then eliminated and a district's aid, in relation to other districts, is dependent in part upon the number of children which it has weighted at the various levels. There are two significant advantages to this methodology. First, it recognized the differing cost factors involved in educating children in each of the disability areas. Second, because the categorical aspect of payment is eliminated, aids are distributed under the equalization methodology and, therefore, acknowledged the relative wealth of each district.

As indicated in a previous section of this chapter, there has been considerable interest on the part of the Governor and, to some extent, the Legislature to reduce the number and dollar amount of categorical aid payments and distribute a larger portion of state aid dollars under the equalization formula. If this were to be proposed in the area of handicapped education, it seems reasonable that a pupil weighting mechanism be incorporated in order to recognize the higher costs of such programs.

There are, however, points of this formula which must be reviewed, especially in terms of a formula alternative for Wisconsin. In order to develop a sophisticated weighted formula, refined cost data by program is necessary. Once this data is available, a pupil weight needs to be fixed for each category and incorporated on a statewide basis. Such weight would apply to each child in each disability area regardless of his or her school district of residence. Assume, for example, that the weight for a mentally retarded youngster is set at 3.5. That weight would apply for all children and would not incorporate an element of flexibility to recognize that costs in a number

of districts could be higher or lower than the 3.5 figure.

Excess Cost Reimbursement. The excess cost formula requires that school districts compute the cost of educating a handicapped child and then subtract from this amount the average cost of educating a nonhandicapped child in the district's regular program. The difference ("excess") may then be fully or partially reimbursed by the state. Although this base format is employed by each of the 15 states which incorporate such methodology, there is some variance in the amount of the excess which is reimbursable.

Pennsylvania and Tennessee both provide 100% of the excess costs associated with the education of handicapped children. (Typically reimbursed are costs of salaries, of special education personnel, texts and supplies, and transportation.) Other states, such as Arizona and Michigan provide only a portion of a district's excess costs (90% and 75% respectively). Also, some states set absolute limits on the reimbursable amount. Massachusetts will provide full excess costs up to 110% of the state regular education average per pupil cost; Nebraska will reimburse to 90% of excess costs but with a ceiling, for example, of $300 per educable mentally retarded child.

The philosophical argument which favors the excess cost methodology is based upon the premise that a school district should provide the same level of base support for each child who is enrolled, regardless of individual programming needs, and that the state or federal government should recognize costs above this level for special programming and compensate the district accordingly.

Because of lower staff/pupil ratios, additional support services and special equipment, the cost of educating a handicapped child is generally greater than that required for a nonhandicapped youngsters. However, through state percentage reimbursement rate formulas, it is often the case that a district's commitment to a handicapped child is less than that provided a nonhandicapped pupil. In Wisconsin, because of the high level of state categorical support (70%) and the payment of state general aid on the remaining 30%, local districts seldom generate fiscal resources for handicapped youngsters equal to those provided for nonhandicapped youngsters. The excess cost mechanism removes this disparity and insures an equal base level of support for all children of the district.

Excess cost funding is one which deserves careful attention in Wisconsin. As noted in Chapter VI, P.L. 94-142 requires that states and school districts develop excess cost formulas in order to receive federal aid under that program. Although this alone is noteworthy, there are other compelling reasons to consider this alternative.

When legislation for the handicapped was introduced in 1973, the drafters of that proposal were primarily concerned with insuring that all children, regardless of any handicapping condition, were provided an educational experience commensurate with their needs. This presumed that each school district would be responsible for appropriate program placement for handicapped children and also that such children should be viewed as any other child with free and open access to the system. Inherent in such philosophy is that a local district extend the same base level resources to all children.

Second, the excess cost funding mechanism has built-in flexibility as it recognizes cost differences between districts and funds them accordingly. Also, from a state standpoint, the appropriation required under an excess cost formula would be less than that provided under the present methodology. Thus,

in accordance with the state's commitment to fund 40% of public school costs, more dollars would be available for distribution through the equalization aid formula.

Finally, the level of state categorical support for programs for the handicapped is currently at $67 million and can be expected to go to $79 million in 1977-78. With the number of children now being served (probably nearing or equal to 100% in a majority of disability areas) there is reason to shift to the excess funding method in order to parallel the funding mechanism of the federal law and to maximize use of the anticipated federal dollars.

The above section has highlighted the various funding formulas employed by the various states. Table VIII lists the states and summarizes the principal funding arrangements currently in practice in each.

There have been several clear trends in the use of funding mechanisms over the last several years. In general, states have tended to abandon formulas which have proven the most inflexible or which have limited reimbursement to relatively few items. Straight sum and personnel reimbursement formulas have given way to weighted or excess cost methodologies. No state presently uses the straight sum formula exclusively for allocating aids. Only a handful rely solely on the personnel reimbursement mechanism. The largest state still using that formula, Illinois, is presently converting to an excess cost procedure. A number of states continue to use unit support, but importantly no state has recently abandoned another formula in favor of a unit reimbursement scheme. The unit support formula simply is not flexible enough for the increasingly complex range of special education requirements in most states.

A few jurisdictions use the percentage reimbursement formula. However, all of the states using this formula have recently experienced difficulty with growing costs under sum sufficient appropriations. Because of these escalating costs, Wisconsin and South Dakota, for example, have attempted to limit the amounts available through their reimbursement formulas by the establishment of sum certain appropriations.

Over one-half of the states have turned to either the weighted or excess cost formula. The excess cost formula has proven attractive to policymakers because it requires the same basic funding commitment by local school districts to all children, with the state assuming the additional cost for handicapped youngsters.

Findings

1. State categorical support for programs for handicapped children have increased dramatically since 1973-74. As projected through the 1977-79 biennium, such aids will have increased by 218.9%, in comparison to a 54.4% increase in the state's general fund.

2. Over the six-year period, 1973-74 through 1978-79, the percentage of total state school aid distributed under the equalization aid formula has dropped by 6.9% (from 88.4% to 81.5%) while the percentage of total aid provided for programs for the handicapped has correspondingly increased by 6.9% (from 6.2% to 13.1%).

3. During the six year period between 1973-74 and 1978-79, actual and projected cost figures demonstrate that support for local special education coordinators/supervisors, psychologists, and social workers have increased quite rapidly. While the number of these support personnel has increased by 89.9%, aid reimbursement for salaries has increased by 235.9%.

TABLE VIII

STATE FUNDING MECHANISMS FOR

PROGRAMS FOR HANDICAPPED CHILDREN

State	Funding Mechanism
Alabama	Unit support
Alaska	Unit support
Arizona	Excess cost formula (90%)
Arkansas	Excess cost formula (100%)
California	Excess cost formula (100%)
Colorado	Excess cost formula (100%
Connecticut	Excess cost formula (66 2/3%)
Deleware	Unit support
Florida	Weighted formula (15 weights)
Georgia	Weighted formula (11 weights)
Hawaii	State pays all education costs
Idaho	Weighted formula: personnel reimburse
Illinois	Personnel reimbursement
Indiana	Weighted formula (13 weights)
Iowa	Weighted formula (3 weights)
Kansas	Personnel reimbursement
Kentucky	Weighted formula (8 weights)
Louisiana	Unit support
Maine	Percentage reimbursement (100%)
Maryland	Excess cost formula (100 up to $1,000 per pupil)
Massachusetts	Excess cost formula (100% up to 110% st average per pupil costs)
Michigan	Excess cost formula (75%)
Minnesota	Excess cost formula (80%); personnel reimbursement
Mississippi	Unit support
Missouri	Unit support
Montana	Percentage reimbursement (100%)
Nebraska	Excess cost formula (90%)
Nevada	Unit support
New Hampshire	Excess cost formula (up to 100%)
New Jersey	Weighted formula (13 weights)
New York	Weighted formula (1 weight)
North Carolina	Unit support
North Dakota	Unit support
Ohio	Unit support
Oklahoma	Unit support
Oregon	Percentage reimbursement (30%)
Pennsylvania	Excess cost formula (100%)
Rhode Island	Unit support
South Carolina	Unit support
South Dakota	Percentage reimbursement (25%)
Tennessee	Excess cost formula (100%)
Texas	Unit support
Utah	Weighted formula (10 weights)
Vermont	Personnel reimbursement
Virginia	Excess cost formula (variable %)
Washington	Excess cost formula (95% to LEA's; 100% CESA's)
West Virginia	Weighted formula (8 weights)
Wisconsin	Percentage reimbursement (70%)
Wyoming	Weighted formula (4 weights)

4. Wisconsin has consistently ranked among the leaders in terms of the fiscal support which it has appropriated to programs for exceptional educational children.

5. Excluding the State of Hawaii (which funds all public elementary and secondary school expenditures through a statewide property tax), there are six aid distribution formulas used throughout the nation to support educational programs for handicapped children. In recent years there has been a shift away from straight sum, personnel, unit and percentage reimbursement formulas toward weighted and excess cost alternatives.

6. Because of the excess cost features of P.L. 94-142 and the premise inherent in Wisconsin's Chapter 115 legislation that a local school district extend all children the same base level resources for a free and appropriate education, the excess cost formula deserves consideration by the Legislature.

CHAPTER VIII

RECOMMENDATIONS

This chapter presents recommendations for statutory and administrative changes affecting programs offered for children with exceptional educational needs under Subchapter IV, Chapter 115 of the statutes.

1. Beginning in 1978-79 (for programs operated in 1977-78) categorical payments for Chapter 115 programs should be distributed under an excess cost formula. Under this mechanism, local education agencies would provide equal resources for handicapped and nonhandicapped children and the state, in recognition of the higher costs associated with educating handicapped youngsters, would provide those additional or excess costs as state aid.

   By incorporating such a change effective 1978-79 the state would continue its commitment of 70% reimbursement for programs operated in the current school year (to be reimbursed in 1977-78) and would have sufficient time to develop a methodology for the determination of costs attributable to all pupils and those additional costs unique to the education of children with exceptional educational needs. The excess cost formula has the advantage of treating all children in a more equitable fashion, relating the fiscal issues of programs for the handicapped with the philosophical intent of Chapter 115, making additional sums available for distribution through the state's equalization aid formula and making Wisconsin's handicapped aid distribution formula parallel to that established by P.L. 94-142.

2. Where county programs are operated in district facilities, the statutes should be amended so that children who are residents of that district and who attend county classes shall be counted as 1/2 pupil for general aid purposes.

   The statutes currently permit school districts to count their residents attending county programs in the district's facilities as full members for general aid purposes. Educational costs for these children are supported by special handicapped aids, the county tax levy, and general aids. Since this procedure, in many instances, results in more than 100% of a child's cost of education being paid, an adjustment is necessary. Because some district children will receive services in entirely self-contained county classes while others will be mainstreamed part of the day in regular district classes, counting each resident youngster in county classes in district facilities as 1/2 for membership purposes appears more equitable.

3. The statutes should be amended to clarify the meaning of the term salary as presently aided through special handicapped aids.

   Under both promulgated rule and internal policy, the Department of Public Instruction provides 70% reimbursement for salary costs plus salary related fringe benefits (generally construed as compensation). The statutes, as written, stipulate that salaries alone shall be aided. It would appear that the Legislature did

intend to include salary related fringe benefits as an aidable item. This discrepancy in the statutory language should be remedied.

4. The Department of Public Instruction should cease its practice of considering special education instructional personnel who work 85% of their time with EEN children as "full-time" for aid purposes. A similar practice of designating as "full-time" for aid purposes senior level psychologists and social workers spending 90% or more of their time with EEN children should cease.

These policies are contrary to statute and should be terminated. Proration of aids is the proper avenue if full-time status cannot be achieved.

5. The statutes should be amended (a) to prohibit the establishment of any additional county handicapped children's education boards (CHCEB's) after January 1, 1978, (b) to prohibit CHCEB's from contracting out administrative and instructional services, (c) to require that by January 1, 1980, and thereafter, any CHCEB, except those with existing facilities, must provide services to at least 50% of the county in terms of equalized valuation, and (d) to require that a local school district participating in CHCEB services contract for the full complement of services offered in a disability area.

This recommendation is designed first to prohibit the establishment of additional CHCEB's after January 1, 1978. State policy in recent years has been away from county involvement in elementary and secondary education. Since districts were required to assure a program of services to EEN students by July 1, 1976, there is no further need for the creation of new CHCEB's. Furthermore, this review has found both the number of CHCEB's and the number of school districts participating in them to have declined.

This recommendation is designed further to eliminate those CHCEB's which have contracted the operation of all administrative and instructional services to CESA. These CHCEB's, for all intents and purposes, exist solely to collect the $88 flat aid payments and to provide a taxing mechanism to generate the 30% unaided handicapped program costs.

Third, a number of CHCEB's offer programs only to some of the local school districts in the county. In these instances, rising program costs are increasingly burdensome since they are spread over a relatively small portion of the county in terms of equalized valuation. Furthermore, because the costs of providing programs do not decrease in proportion to the decline in valuation of the school districts leaving a CHCEB, costs can become quite onerous for districts remaining in county programs. Thus, the third portion of the recommendation is designed to insure that the economies of scale achieved through joint participation in CHCEB programs are not compromised. A minimum of 50% of the county in terms of equalized valuation is imposed below which the CHCEB cannot continue operations. CHCEB's with existing facilities would be exempted.

The taxing problems associated with school districts participating only partially in CHCEB program offerings are addressed by the last portion of the recommendation. Partial participation in the offerings in a disability area would be prohibited.

6. The statutes should be amended to provide that local school districts may withdraw from services provided by county handicapped children's education boards (CHCEB's) on either December 31 or June 30, provided that twelve months formal notice of such withdrawal shall have been given by the local school district to the CHCEB.

The recommendation would permit local school districts to withdraw from CHCEB services in whole or in part at the end of the school term (June 30), as presently permitted by statute, or on December 31, which is not presently permitted. Districts which withdraw on December 31 will not be liable for taxation for support of CHCEB programs in the ensuing calendar year. Local districts withdrawing on June 30 will be liable for taxation for the support of CHCEB programs for the full calendar year in which withdrawal occurs. One year's formal notice of such action must be given by the local school district.

7. The statutes should be clarified with regard to provisions which permit children with exceptional educational needs to be placed in nonsectarian private facilities. This option should be permitted only if no other appropriate public program exists in the state and the "least restrictive alternative" placement requirement would seem to warrant it. The state should provide financial support to local school districts for such placements.

Furthermore, the Legislature should explore whether or not the statutes should be amended to permit children with exceptional educational needs to be placed, under special circumstances, in sectarian private schools, with the approval of the state superintendent, if the contractual arrangement establishing such placement assures that instruction shall be given and instructional staff selected with no sectarian purpose in mind.

This recommendation would allow the placement of EEN youngsters in any private facility in Wisconsin under special circumstances. The state superintendent would have to approve such a placement and assurances would have to be provided (a) that no other public program is available in the state and (b) that the requirements of nearby placement in a private facility are clearly compelling. In no case would placement be permitted if it had the effect of allowing the child's district of residence to avoid what might be reasonably construed to be its responsibilities under Chapter 115. Under this recommendation, private placements made pursuant to the restrictions above would be aided by the state.

The second part of this recommendation asks the Legislature to determine whether it wishes to allow children qualifying for service under Subchapter IV, Chapter 115 to be placed, under very special circumstances in certain sectarian private institutions if full assurances were obtained that no sectarian instruction would ensue. This recommendation calls for a study of the issues raised by the Attorney General in his opinion regarding programming and placement of EEN children at St. Coletta's School in Jefferson. At present, the statutes would not seem to permit such a placement.

8. The statutes should be again reviewed to determine if local school districts should be exempt from the requirement to serve full-time resident

children housed in special residential treatment centers located within the district's boundaries.

This recommendation would address the obligations of local school districts vis-a-vis providing services under Chapter 115 to full-time residents of special care residential facilities within the district's boundaries. At present, local districts are held responsible for special educational services provided to these children.

9. The statutes should be amended so that a child receiving services under Subchapter IV, Chapter 115 shall be presumed no longer to require special educational services unless, as a result of the child's re-examination, the multidisciplinary team recommends, with parental approval, the child's continuation in programming.

This recommendation is designed to end the practice of permitting parents to veto a child's exit from a special education program even though the child's progress would seem to warrant such action. Each re-examination would become a de novo proceeding in terms of child placement. Parental approval of any new placement would be retained. Parents would also have the right to appeal a nonplacement decision resulting from the re-examination.

10. The statutes should be amended so that children attending regular or special education classes in another school district on a tuition chargeback basis shall have tuition paid directly by the district of residence to the district providing educational services.

This practice, now permitted in Milwaukee County should be made statewide. When the state had literally thousands of school districts it was appropriate to spread what might have been burdensome tuition charges countywide. There no longer appears to be any requirement to continue the old practice. The state's 436 districts are now sufficiently large enough to support district-to-district billings. Furthermore, the change will free county clerks from a task which is disproportionately time consuming and where the likelihood is high of producing errors in properly spreading the countywide tuition levy.

11. The statutes should be amended so that a child shall be counted for membership for general school aids in the district which pays tuition for that child.

At present, children attending classes in another district on a tuition chargeback basis are lost for membership purposes. Under recommendation #10 above, students receiving regular or special education services out-of-district will have tuition paid directly to the receiving district by the district of residence. Under such circumstances it is appropriate that the school district of residence be able to claim the child for membership purposes.

12. The statutes should be amended to repeal tuition waiver agreements authority in Milwaukee County for the purpose of providing special education services to children under Subchapter IV of Chapter 115.

Tuition waiver agreements are not currently being used in Milwaukee County. With the tuition and membership changes recommended above,

13. The Division for Handicapped Children should be provided with an additional 6.0 professional positions and 3.0 clerical positions in order that it may move as quickly as possible to ensure local education agency compliance with Chapter 115 and the recently enacted federal legislation. In addition, the Division should use the recommended position increases and existing personnel to begin to evaluate program effectiveness and the impact which Wisconsin's programs are having upon the children being served.

Our review has found the program supervisors within the Division to be highly professional and dedicated to their responsibilities. However, substantially increased workloads without proportionate increases in personnel have hampered the Division's ability to monitor academic aspects of programs, conduct necessary on-site visits and provide assistance in the areas of curriculum development. In addition, there is evidence that the workload burden is having a detrimental effect on employe morale.

Of the 6.0 professional positions, 1.0 each program supervisor should be hired in the areas of early childhood education, learning disabled/emotionally disturbed, physically/multiply handicapped and mental retardation. Two of the 6.0 positions should be filled by the Division at its discretion to carry out its mission more effectively.

14. The Division for Financial Aids should be provided with an additional 3.0 professional and 3.0 clerical positions in order to develop regulations and assist cooperative agencies (CESA's, s. 66.30's and CHCEB's) in the administration of Chapter 115 programs, prepare data and make recommendations with regard to the excess cost formula, audit categorical aid payments and ensure the timely payment of aid claims until such time that that system can be modernized pursuant to recommendation #17 below.

15. The Department of Public Instruction should establish regulations to assure the uniform administration of county handicapped children's education boards (CHCEB's), cooperative educational service agency (CESA) contracts, and s. 66.30 cooperative agreements in providing services under Subchapter IV of Chapter 115 of the statutes. These standards should establish (a) proper formats for resolutions and contracts governing local school district participation, (b) correct cost allocation methods, (c) procedures for spreading tax levies, (d) conformance with statutory provisions on membership and tuition billing, and (e) appropriate designation of fiscal agents where required.

Our review has found that there are few standards which the Department applies specifically to CHCEB's, CESA's or s. 66.30 agreements. Procedural and administrative arrangements are more complicated under cooperative agreements than when programs are offered by a single local school district. Thus at the very minimum, departmental standards must address these factors which are a principal source of confusion in the providing of Chapter 115 services.

16. The Department of Public Instruction should submit a report to the Governor and to the Joint Committee on Finance each November 15 and March 15 during the 1977-79 biennium on the progress of child find efforts in the state and upon those steps being taken to achieve full service to handicapped

children in Wisconsin.

The Department and its Division for Handicapped Children should carefully review all data related to rates of incidence of handicapping conditions and to level of service to assure that they properly reflect the conditions relative to exceptional educational needs in the state.

In order to maximize the use of federal funds under P.L. 94-142, it is important that the state reach full service to all children with exceptional educational needs in Wisconsin. Because of the substantial funding consequences of achieving full service, the Governor and the Legislature must be kept apprised of the state's progress toward this goal.

The Department's data collection and reporting activities appear to warrant further attention in light of existing inconsistencies between information supplied regarding compliance with Chapter 115 mandates and those regarding levels of service for P.L. 94-142 programs.

17. The Division for Financial Aids should be provided the means to modernize its aid computation and vouchering procedures by converting to advanced data processing techniques. Until such time as these changes are effected, the Division should take steps to assure that special handicapped aids are distributed to districts in a timely fashion.

The present aids distribution process is tedious and cumbersome and is done almost entirely by hand. In four years, special handicapped aids have increased nearly $50 million. The procedures used for processing these aids have not themselves changed to accommodate this dramatic increase.

The Division has begun to experience delays in reimbursing school districts during the year following program operation. A thorough review of current procedures appears warranted to avoid any additional late payment of special handicapped aids.

18. In those instances in which local educational agencies are operating special education programs inconsistent with either statutory requirements under Chapter 115 of the statutes or rules under Chapter P.I. 11, of the Wisconsin Administrative Code, the Division for Handicapped Children should move to assure compliance with statute or rule as appropriate. Failing this, the Division should move to deny special aids until such time as compliance is assured.

If, in the view of the Department, the threat of denial of special handicapped aids to a local education agency is inappropriate to achieve the legislative intent that those agencies provide appropriate service for EEN children, the Department should recommend to the Legislature alternative procedures to guarantee compliance.

The Department and its Division for Handicapped Children have permitted Milwaukee School District to remain in noncompliance with the mandates of Chapter 115 beyond June 30, 1976, and appear to have approved elsewhere in the state programs of service containing nonapprovable elements. The Department must either insure compliance with existing statute and administrative rule (even if this action requires the denial of funds to an educational agency)

or recommend to the Legislature appropriate alternatives.

19. The Department of Public Instruction should continue its efforts at forms modification and reduction. This activity should include the incorporation of consolidated, pressure sensitive reporting forms.

This recommendation is the result of the considerable attention given this issue at the local level. Forms consolidation by the Department is to be encouraged but not at the expense of undercutting the Department's effort to monitor local programs of service.